CHILD WELFARE AND ADOPTION ASSISTANCE

HEARING

BEFORE THE

SUBCOMMITTEE ON PUBLIC ASSISTANCE AND
UNEMPLOYMENT COMPENSATION

OF THE

COMMITTEE ON WAYS AND MEANS
HOUSE OF REPRESENTATIVES

NINETY-EIGHTH CONGRESS

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CHILD WELFARE AND ADOPTION ASSISTANCE

FRIDAY, JUNE 1, 1984

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
SUBCOMMITTEE ON PUBLIC ASSISTANCE AND
UNEMPLOYMENT COMPENSATION,
Hartford, CT.

The subcommittee met at 10:30 a.m., pursuant to notice, at 10:30 a.m., in the Senate Chambers of the State Capitol Building, Hartford, CT, Hon. Barbara B. Kennelly presiding.

[The press release announcing the hearing follows:]

[Press release No. 14, May 25, 1984]

HON. HAROLD FORD (D., TENN.), CHAIRMAN, SUBCOMMITTEE ON PUBLIC ASSISTANCE AND UNEMPLOYMENT COMPENSATION, COMMITTEE ON WAYS AND MEANS, U.S. HOUSE OF REPRESENTATIVES, ANNOUNCES A PUBLIC HEARING TO BE HELD IN HARTFORD, CT, ON CHILD WELFARE AND FOSTER CARE ISSUES, FRIDAY, JUNE, 1, 1984

The Honorable Harold Ford (D., Tenn.), Chairman of the Subcommittee on Public Assistance and Unemployment Compensation of the Committee on Ways and Means, U.S. House of Representatives, today announced a public hearing on child welfare and foster care issues to be held in Hartford, Connecticut, on Friday, June 1, 1984. The hearing will be held in the Senate Chambers of the State Capitol Building, beginning at 10:30 a.m.

The hearing will include invited witnesses from a number of states in the New England region, including state child welfare officials from Maine, Vermont, and Connecticut. In addition, private child welfare organizations, foster parents, and representatives of other organizations concerned with adoption and research activities have been invited to testify at the hearing.

In announcing the hearing, Chairman Ford stated, "The hearings being held in Connecticut are a part of the oversight and legislative activities of the Subcommittee concerning the implementation of the Adoption Assistance and Child Welfare Amendments of 1980 (P.L. 96-272). A hearing on this issue has already been held in Oakland, California, on April 16, 1984.

"The 1980 amendments were enacted because of the concern at that time about the inadequacies of child welfare and foster care programs in the states. Those concerns were primarily related to: (1) lack of services to families to reduce the need for foster care; (2) inadequate case review procedures to prevent unnecessary extended stays in foster care; and (3) inadequate efforts to place children for adoption where it is appropriate," and Chairman Ford.

Chairman Ford also stated, "From the hearings already held and from other information available to the Subcommittee, it is becoming clear that a combination of factors over the past years has hampered implementation of the legislation. Those factors include: reductions in the Title XX social services funds available to states because of the Reagan budget cuts; lack of sufficient increases in funds for child welfare services under Title IV-B of the Social Security Act which are needed to implement the legislation; and the sharp increase in reported cases of child abuse and neglect throughout the country. For example, at the California hearing, the Subcommittee heard from local child welfare agency directors that the increases in the reports of child abuse and neglect have resulted in more staff resources being required just to investigate such reports and less staff effort to provide intensive services to families to prevent the need to remove children from their homes and place them in foster care."

WRITTEN COMMENTS FOR THE RECORD OF THE HEARING

For those who wish to file a written statement for the printed record of the hearing, six copies are required and may be submitted by the close of business, Friday, June 15, 1984, to John J. Salmon, Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Room 1102 Longworth House Office Building, Washington, D.C. 20515.

Mrs. KENNELLY. I would like to begin by thanking everyone for coming here. Knowing the flood conditions in the State, I know it might have been hard for you to get here, and we have a number of people who could not make it because of the flood situation and a desire to stay closer to home.

I would also request that those who have written testimony, if they want to bring it up so it can be inserted in the record, your testimony in its entirety will be inserted in our record, and we will be glad to hear from you.

Your attendance indicates that you are concerned about the foster care and child welfare system, and like myself, are concerned about how it might best serve the needs of the children and their families.

This hearing is part of the Subcommittee on Public Assistance and Unemployment Compensation's ongoing effort to improve the child welfare and foster care system. Public concern over children "adrift" in the foster care system led to the enactment of major Federal legislation in 1980 intended to encourage a more comprehensive and child-oriented child welfare system.

This law, Public Law 96-272, the Child Welfare and Adoption Assistance Act, is widely regarded as a landmark: its primary emphasis is to ensure that children have the benefit of a permanent home, and it is intended to reduce reliance on long-term foster care when there are more appropriate solutions to family problems.

Public Law 96-272 accepted the concept that a child's sense of time is very different from that of an adult. For a young child, only a few days or weeks away from a primary caretaker is a terribly long time, while for an overworked caseworker it may seem like no time at all. The law required that there be greater efforts to respect the child's need to make permanent attachments to the adults caring for him or her.

Under the terms of the 1980 Child Welfare and Adoption Assistance Act, the States, with Federal assistance, were to build upon the strength of the existing family at risk. Services were to be provided to prevent the child's removal from the home or to reunite the family at a suitable time. If the child could not remain with his or her biological parents, then plans were made for the child's eventual placement with guardians, adoptive parents, or with long-term foster parents. The 1980 Child Welfare Act contained specific reforms and financial incentives for the States.

I am a strong supporter of Public law 96-272. I believe the testimony we hear today will point out some of the achievements and improvements which have been made in child welfare programs since the enactment of the law. I do feel, however, that we need to examine what more can be done to remove the obstacles which block full implementation of the law. I am concerned about whether the laudable goals of the act are being achieved for the children, with the money and manpower we are now devoting to their problems. I believe cuts in social service programs have hurt children at risk and for this reason I have introduced legislation to restore funding for the social services block grant to a more adequate level to meet these needs.

I feel a special urgency about holding this hearing today. Over 13,000 children were reported to the Connecticut Department of Children and Youth Services last year as suspected victims of child abuse and neglect. As a recent Newsweek article pointed out: sexual abuse of children is much more widespread than most Americans suspect or want to believe. The sharp increase in reported cases of child abuse and neglect throughout the country is alarming, and I am fearful we are not doing all we must do to protect children from this suffering.

The children who enter the foster care system in the United States do so under the most painful of circumstances. We are here today to ask what we can do to make the child welfare and foster care system more humane. There are no easy answers, but we in society who have taken responsibility for these children, through accepting or demanding their custody, must be constantly asking how we can live up to that responsibility and lessen their pain.

Congressman Don Pease is joining us in Connecticut today. Don is from Ohio, and I want to report you are all getting your taxpayer money's worth. We in the House of Representatives were in session well after midnight last night and Bob Matsui was called to California and could not make it here today, but Don got up early and got on the plane, and we thank you, Don, for coming here to Connecticut. He is one of the original sponsors of the 1980 legislation.

Thank you very much for coming. Mr. Pease.

Mr. **Pease**. Thank you very much.

I will be brief also because I look forward to hearing from the witnesses who volunteered to come and share their expertise with us.

I come this morning for two reasons. One is my interest in the topics to be discussed. I strongly believe that children are the most important asset that we have in the Nation, and we need to make sure that the provisions in the law for helping them are working the way they are supposed to work.

The second reason I come is, frankly, out of respect for Barbara Kennelly, who is a new member of the House Ways and Means Committee and the Subcommittee on Public Assistance and Unemployment Compensation. I must say she has been an outstanding member of that subcommittee and certainly is well respected by the other members of the committee, including myself, so I am pleased to be here this morning with her.

Mrs. **Kennelly**. Thank you, Don.

As you might expect, our Governor intended to be here with us today, but he has other duties because of the severe flooding. Mildred Williams is taking his place and is kind enough to testify. Mildred.

STATEMENT OF MILDRED WILLIAMS ON BEHALF OF HON. WILLIAM A. O'NEILL, GOVERNOR OF CONNECTICUT

Ms. **Williams**. Congresswoman Kennelly and members of the Subcommittee on Public Assistance and Unemployment Compensation of the House Ways and Means Committee, I am very happy to welcome you to the State capitol.

The Child Welfare and Adoption Assistance Act, adopted by the Congress in 1980, has proven to be a very important law in supporting quality care for the children of our State and Nation.

As you know, this legislation established a series of requirements for the States in order for them to qualify for financial assistance in two specific areas: child welfare services and foster care and adoption. I am very pleased to be able to report to you that Connecticut has made significant progress during the past 4 years in complying with these provisions. We have in place a statewide case management system, a written treatment plan for every child in our care which is reviewed every 6 months, and the 18-month dispositional hearing, just to name a few.

I am also pleased to report that we have been able to reduce the number of children in placement for 6 months or more. As of the first of this year, that number was about 3,300, or about 600 fewer than the figure of 3 years ago.

Through our compliance with the law, we in Connecticut have been able to secure approximately $6 million under title IV-B. We have matched those Federal dollars with nearly $13 million in State funds, and this money has certainly enabled Connecticut to improve its child welfare and foster care and adoption services considerably. For example, these funds have helped us to arrange more than 460 subsidized adoptions over the past 3 fiscal years. I expect that this year's number will push the 4-year total close to 600.

There is only one area in which Connecticut is not in compliance with the Federal law. This is the area, as defined by a judicial determination, that requires "reasonable efforts" to prevent removal of a child from a home. The reason for our noncompliance is that the Federal Government did not define "reasonable efforts" until January of this year. Our Department of Children and Youth Services is at work right now with our judicial system to develop a process that will bring Connecticut into compliance. I am confident that such a system will soon be in place.

Later today, you will be hearing more about this program in much greater detail. I am sure that you will agree that Connecticut has done an excellent job in this most important and compassionate area.

Thank you for this opportunity to summarize the Connecticut program.

Mrs. **Kennelly**. Thank you, Mildred. You mentioned the one area of noncompliance at the end of your statement. Are there any other major barriers?

Ms. **Williams**. Barbara, I am sorry, I don't know that much about the bill. I was only asked to come and read the statement.

Mrs. **Kennelly**. Well, thank you very much.

Ms. **Williams**. Commissioner Mark Marcus is here and also members of the staff that would be able to answer any questions that you might have.

Mrs. **Kennelly**. Thank you. We appreciate your coming representing the Governor.

The first panel from inside the system is Kathy Lutz, Milford, CT, foster parent; Louise Bray, Pawcatuck, CT, foster parent; Rachel Rossow, Ellington, CT, foster parent; and Michael Rohde, Meriden, CT, president, Connecticut Association of Private and Nonprofit Child Care Agencies.

I think the best way to proceed is if we start with your testimony, and then we will go into questions. Why don't we start with Kathleen Lutz.

STATEMENT OF KATHLEEN LUTZ, FOSTER PARENT, MILFORD, CT

Ms. **Lutz**. Fine. My name is Kathy Lutz. I live at 44 Carrington Avenue, Milford, CT. My understanding is that you will have many knowledgeable panelists here today to speak on the many, many issues concerning the foster care system in Connecticut. So, if I may, I would like to presume to speak to you on behalf of the foster children, more specifically, the foster children that now live in my home, and to share with you the experiences of the 125 children who have stayed in and left our home.

I am a foster parent. I am licensed by the State of Connecticut for a permanent family residence. My husband and I have provided foster care for multihandicapped children, and we have done so for more than 15 years. The children placed in our home by DCYS suffer from a variety of problems and can no longer be kept within a regular foster home.

They all have emotional handicaps, some are retarded, some are learning disabled. We have had blind children, autistic children, and physically handicapped children. The children come to stay with us while agencies within our State deal with the problems of their natural families.

DCYS workers in our experience for the most part make a valiant effort to try to provide resources for their families. While this goes on, the children wait, they wait while adults consider them to be safe. The State is very thoughtful, very thorough, in attempting to provide that safety.

They are concerned with the appropriate clothing for the season, that our home be free of unsafe things, that the children have jobs suitable to their ages, and they won't have more than four sleeping in a room. The State wants our water to be safe to drink, which is no easy task in the world today.

But what of the children? All of these regulations are made in my opinion to make adults feel that the children are safe. I assure you, the foster children in my home today do not feel safe. Their safety is always threatened, it is unstable, it is temporary, and in many cases at the whim of their parents. Parents are given rights, as they should be, to visit with their children and reestablish relationships.

Parents who have raped, burned, beaten, neglected, locked up, tied up and left them, parents who usually don't show up for their scheduled appointments who show up occasionally, sporadically, parents who are always a part of the children's lives.

Social workers in our experience do very little to help parents visit with their children. They do very little to help them build a better relationship with their children. And the children, What do they do? They want their parents to be able to care for them. They want their parents to love them, and they don't want to be able to love their parents. But they don't go home; they go home for months, and even years, and sometimes never.

Time goes by, and they stay, always ready to go. Safety, we do not provide foster children, safety is an illusion of foster care, it never comes to a child so long as they are a foster child. Our resources are often not enough. Because funding for preventative services is sparse, because people whose lives are in such turmoil no longer, if they have ever had, have the determination and strength to change and provide homes for their children. Therapy, the answer to everything, is not enough.

And still the children wait, they wait for safety. How do they fare in our home while they wait? They make initial gains, they learn more social behavior, they eat better, maybe, but the pain, it never goes away, the longing, it never goes away.

The children adapt as well as this limbo way of life allows them to. They lie because they often don't know when it is safe to tell the truth. They steal in an effort to satisfy their needs, the longing. They wet their beds, they wet their pants, they soil their pants, they are often sick with colds and allergies, their bodies often take over to relieve the stress their minds are constantly suffering.

And when their pain is so obnoxious, to all of us, we put them in residential facilities, because they are too crazy to live in the community and there they continue to wait.

They wait while our overloaded, understaffed courts delay their safety, while judges and lawyers and parents get continuances for month after month after month. No one can ever answer my question as to why the children wait. The laws have time constraints built into them, they are ignored, they are abused. After all, it is only the child who waits.

Then when we as a society have further damaged them, which we do in foster care, we finally after 1 year or 2 or 5 or more settle their lives. We send them home, or leave them in foster care or send them into adoption, and we think it is over. It is not over. The scars are too deep, we took too long.

Our aim, in my opinion, should be to eradicate foster care, to provide excellent service to families in crisis, to never remove a child without a plan to make that move permanent. Then the interim placement, that we could still call foster care, should never exceed more than 6 months. A safe time should not be denied a child for more than that period.

Preventative services and swift decisions and justice shoud be our aim and our goal. Eight children are waiting in my home today for safety.

Thank you.

Mrs. KENNELLY. Thank you for your excellent testimony.

Louise Bray.

STATEMENT OF LOUISE BRAY, FOSTER PARENT, PAWCATUCK, CT

Ms. **Bray**. My name is Louise Bray. I am a foster and adoptive parent from Pawcatuck, CT.

Having been a foster parent for the past 9 years and over 60 children passing through our home, I would like to say the system is getting better. What I would like to see is the best possible system for our children.

Children are staying in care for shorter periods of time. The filing for commitment within 90 days seems to be a reason for this. Treatment plans are started immediately when all resources are available.

I have also seen this as a pressure and a child going home to an unhealthy situation so that a commitment need not be filed just because all the resources were not in place, such as family counseling and a parent aide. There are a number of cases like this, where a couple more months in care is a safer route and commitment is not really needed. This would lead to untying the court system too with unnecessary commitment hearings.

The 18-month judicial review is also crowding the court system. It is an extremely needed guideline, but a special system should be set up to handle just these reviews.

The treatment plan review seems to be effective and keeps everyone informed and alert to what is happening.

There are a number of things that could set us well on the road to having the best possible system for our children, the first being more caseworkers; lessen their case loads so they can do a better job and not burn out so quickly. This could cause a large impact on the number of children being placed. A worker could spend more time with families preventing crises from happening.

Second, we need more resources to work with, specialized counselors for older child adoption, multiplacement, and sexual abuse, et cetera. We don't need to be put on a waiting list when we are in a crisis. A crisis doesn't wait.

We need more daycare facilities for birth-parent and foster parents. Foster parents are very busy people doing many things for their children and child care is very often hard to find especially with difficult or large numbers of children.

Parent aides are another greatly needed resource. Often a child could go back home if only there were a parent aide to hook that family up with.

All these things take more funds. One of the biggest areas that funds are needed is in the board and care rates. We are losing families at an astounding rate. A few of the reasons for this are that the children being placed are harder to work with. There is no respite care for foster families and families are burning out quicker.

Many families are finding it necessary for both husband and wife to work. The care rate doesn't make it possible for one of them to stay at home. All the other professionals that work with children are paid adequately. We often find ourselves digging into our own pockets. There are a lot of extras the children need that we need to get for them: vitamins, cough syrup, prom dress, tux, bikes, et cetera. The clothing allotments are not nearly enough.

With enough funds, we could have the best system possible. Fewer children would come into care and those that do would get the services they need. This would give them a life with a future before time runs out on them, as it has in the past.

Thank you.

Mrs. KENNELLY. Thank you.

Michael Rohde.

STATEMENT OF MICHAEL ROHDE, PRESIDENT, CONNECTICUT ASSOCIATION OF PRIVATE AND NONPROFIT CHILD CARING AGENCIES, AND EXECUTIVE DIRECTOR, CURTIS HOME CHILDREN'S PROGRAM

Mr. ROHDE. Congresswoman Kennelly, Congresssman Pease, welcome to Connecticut. Thank you for this opportunity to present testimony to your committee.

My name is Michael Rohde. I am the executive director of the Curtis Home Children's Program in Meriden, which is a private, nonprofit child caring and child placing agency. I am also the president of the Connecticut Association of Child Caring Agencies, a group of 16 agencies, several of whom provide child placement services.

In my present capacities, I have the opportunity to see what is happening with the Connecticut foster care system. In particular, the efforts to reunite children with their biological parents after removal from their home situation and also the placement of children in permanent nonbiological family homes.

First of all, I would like to comment that Public Law 96-272 has been very positive and important legislation for children in the child welfare system. It has focused attention, energy, and resources on children at risk, displaced children, and children in drift in the child welfare system. The 6-month administrative reviews have had a significant positive impact on treatment planning and accountability for the child in the system.

The administrative reviews are still relatively new, and there are some continuing problems which merit attention, namely, the treatment agency providing services to the child (that is, residential treatment) does not routinely get invited to the administrative review, nor does the treatment agency routinely receive copies of the child's treatment plan. Attention must be paid to this problem to ensure that good communication and coordination between and among the State agency and private treatment facility takes place.

Probably the single biggest problem with 96-272 presently is the lack of adequate funding to insure necessary services to children being reunited with biological families and to children being placed in new families. Our experience in placing children in families (their own or one recruited to be their permanent family) indicates that:

One, it is exceedingly difficult work which requires a tremendous amount of time, commitment, and resources to be successful.

Two, it requires a sustained effort over a significant period of time by the family, child and supporting resources.

I believe there are some myths in operation which create a false illusion. These myths say: "Put the child back into his/her family and everything will be OK." That is simply not the case. Most of the children and families we deal with have serious problems of longstanding nature. Often these involve physical abuse, neglect, alcoholism, generational family instability, and increasingly the problem of child sexual abuse. These problems are not readily or easily dealt with, and they are rarely, if ever, cured. If supportive services are not available to that child and family upon reunification, the odds are that it will not work.

Another myth that creates an unfortunate illusion is "Place the child in a loving, committed family, and everything will be OK." We have found that even when we place our best kids with our best recruited families, it is still a most difficult task to establish a permanent family placement which lasts. The absolutely critical factor to success is the support services available to the child and family for up to and over 2 years duration in most cases. Most families have absolutely no idea what challenges and problems will be presented by the child and what dynamics will be triggered in their family system.

Another myth which hampers the work of reunification and child placement is "Providing support services creates a dependency situation of the family on a service provider." This rationale was given by a local child welfare office not to fund after-care services to two girls returning to an incestuous family situation. Needless to say, the replacement didn't work. It is important to recognize that supportive services including after-care, crisis intervention, parent aides, and respite care are absolutely necessary and critical to most successful permanent family placements for children. These services make the difference between success and failure. While they do not guarantee success in all cases, their absence generally guarantees failure.

In conclusion, 96-272 has been a good start in providing better focus and accountability for children in the child welfare system. The major problem is the lack of adequate funding to provide the crucial services necessary for child reunification and permanent family placement to be successful.

Thank you.

Mrs. **Kennelly**. Thank you, sir.

Rachel Rossow.

STATEMENT OF RACHEL ROSSOW, FOSTER PARENT, ALPHA AND OMEGA, ELLINGTON, CT

Ms. Rossow. I have some booklets that Chris asked perhaps I pass out.

I feel rather awkward being here. What I feel very comfortable speaking about are children, not the foster care system, so I feel very awkward.

I really could only just reiterate what the ladies have said before me, and agree wholeheartedly in support of their comments. Perhaps what I would like to do is address my comments specifically toward children with disabilities, and the urgency and the need they have for permanency in their lives.

Mrs. **Kennelly**. We want to hear that.

Ms. Rossow. "A person who is severely impaired," Helen Keller said, "never knows his hidden strength until he is treated like a normal human being and encouraged to shape his own life." It is paramount that the normalcy of the child be considered foremost and the youngster be given notice as soon as possible of his or her family placement decisions, as it is important to have realistic understanding and expectations of the specific needs that a particular child might have. We must not lose sight of the fact that this cerebral palsy or learning disability or spina bifida is housed within a child.

If allowed an appropriate environment and family, such a child possesses the same hopes, fears, and joys as all other youngsters. Each of us becomes a psychologically well-adjusted adult by finding a delicate balance between the identification of our own strengths and abilities and the understanding and acceptance of our own limitations. The ideal situation occurs when this balance is interharmonized or mirrored by an external harmony about our own family and community.

For youngsters with special needs, the acceptance of their limitations is more difficult if they are not pushed by an accepting family. For children with a disability and without a stable family, the task of becoming a psychologically well-adjusted adult is almost impossible.

The needs of all children to accept their abilities is predicated first on trusting one another, then trusting themselves. The permanency of an accepting family becomes the bridge over which children will be able to accept and understand their own strengths and limitations. I think if there are any thoughts I could leave anybody with it is that right there.

If I could share with you an experience we have. Right now we have 14 children. We have a little boy that is, officially, a foster child in our home. He has been with us since August. His name is Roy. He acquired polio almost 2 years ago. Up until then he was a street kid, and for the last 2 years he a quadraplegic, getting used to the new body and new person that he will be for the rest of his days, most of his life.

In the last 2 years, in his mind and in the people's around him, the focus was on what he could no longer do or accomplish. Because we have been amazed with his artistic ability. He cannot use these fingers at all except in this fashion, but on this hand he can grasp a pencil like this and draw incredible proportions. We had an artist come by the house and evaluate him, and he was excited with his ability.

The point I want to make is we can accept the fact his legs will never work and the fact he does have ability, he does have gifts that he can enrich all of society with plus his own life. He woke up this morning so excited. He is going to start a whole art program. It is very exciting.

As I say, every one of us has a gift we can offer our families, our communities, one another, ourselves. I think step one has got to be to realize that the children are children, and that this tremendous need for permanency is what has been attested to so strongly here; and then step two is including the children, whatever the disability, emotional and mental, physical, into our society; and three, needing them, wanting their gifts, allowing them to share the gifts that they have as much as the gifts we have to offer them.

I know I am a little all over the place. The booklet, by the way, was written as an open letter to parents that have given birth to children with severe disabilities. The pictures in there are all of our children. I use them because our children are so pretty. But it is not about us. It is really a booklet that we give to parents that have just given birth to children and when they are in the decision-making time of what they do with their lives and their children.

Families interested in adopting children with special needs can be characterized by specific qualities. At any given time these characteristics will be found in one or more family members, but not necessarily the same family member consistently.

First, the families, including the parents and children, view it as a unit. There is a sense of cohesiveness that leads to general traits and openness and ability to recognize and define both individuals and family needs. A realistic attitude toward special needs, they are seen part of the whole, neither denied, nor allowed to become an obsession.

A humanistic religious motivation seems to permeate these families, a high level of tolerance of frustration, and flexibility, this ability to adapt to long- and short-term goals peacefully; and all families expect parents to follow fundamental processes of development.

At some point there must be a willingness on the part of parents to place their own needs in abeyance temporarily, sacrifice parental interests for the sake of one or more of the youngster's needs, and in time, as the family's single purpose evolves, the need of parents and children come to complement each other.

Families can include children with the most severe disabilities. We have seen heartaches for some families with two children, one with a severe disability and one with a normal child, with the families trying to live two completely separate lives. They have two sets of vacations, two sets of friends, two sets of schools, and they are always being torn apart. It is really just as easy to go camping with a child in a wheelchair as a child without a wheelchair. Families need to know these things. They need to see themselves as a unit and to have their parenting confirmed and the world around them.

Some of the obstacles that we have seen to adoption are erroneous assumptions about the lives of children with special needs. Some children with severe disabilities or children who are terminally ill require hospitalization. Some of our children have no terminal situations; again, they can have just as much fun going to the Fortune Fair, or Simone who NIH records as the oldest living person with her degree of osteogenicity. She was at the State capital last week, and was thrilled enough—Governor O'Neill waved to her. Again, she was just as excited being here as anything else, and the life that she deals with.

We are not unusual in that there are families all over the place—I would like to take a second to describe our little Benjamin. Benjamin was born with a brainstem only. He does not have hearing or vision. What he does have is the ability to chuckle, to laugh, to touch people. He is 5 years of age; developmentally, somewhere around 1 to 2 months of age.

What is wrong with him? You remember back, our own children, it is a delightful time. It is a time when the youngsters, they have gotten over the newborn stage of waking all times at different hours. We are not the only ones that have adopted youngsters with the diagnosis that Benjamin has.

Melissa is in Indiana, with the same diagnosis. She is now three. There is Paul, a little boy out in the Midwest, again with the same diagnosis. These adopted children—Courtney is now seven with a brainstem that would be probably from the medical standpoint the most severe disability of a child who could survive and never have any cognitive ability. And these are children in permanent families, too, adoptive. Courtney is in the situation where her mother that she is living with has a private arrangement with the birth mother.

The point that I would like to make in that is to expand our horizon. What we mean by adoptive families, in many cases they are single parents, older parents, that would like to spend 5 years dedicated to a child they know has a terminal illness. I am familiar with one mother who moved from one State to another. And I asked her why she was going to have to move, and she said in the State she was in, she could only have five foster children. Her mother had 20 and was a damn good mother. She wanted more children so she was sharp enough to call first the State agency to see how many children they would allow her to have, and that is where she went. And she was a single parent living in the inner city and doing a marvelous job parenting the children.

I would ask to expand the view of what we mean by parent and the same say expand the view of what we mean by child. And if you see a child with a terminal illness, a child severely disabled, above all that is a child. Simone is now a freshman at Ellington High School. She is in an electric wheelchair. She was at New Britain Memorial Hospital for the first 5½ years of her life, and she is truly proud of herself. She is still a teenager.

At the last day of junior high school, she said, "I have to have bubble gum." I said, "Why? I can't stand the smell of that stuff." She said, "That is it, because my teacher can't, either. I have waited until the last day of junior high so I could."

They have the same dream, same hopes as all others. If they are given the permanency Kathy talks about, that foundation, the family, and accepted as a part of a community.

I am afraid some of the comments, and again these are from a variety of experiences of working with various situations, birth families and adopted families and foster families, if I were to add two of the things that have been the biggest to our children, apart from the legislation we are discussing today, it is 94-142 and 504. The 94-142 truly has opened doors. I would like to kiss the person that originally thought of it. Up until that was implemented in September 1980, our children could attend school, but they could not go to the bathroom because they were in wheelchairs and the restrooms were inaccessible. In a variety of weird ways they had to survive. It was a disaster.

What I want to do is stress the appreciation on the parts of families, not just ourselves, but I have heard it from every family I know, of the child about the disability, the tremendous need for 94-142, to continue that, in fact. And to continue the right of the parents to be involved. We hear every now and again that might erode. The parents would have to be informed of the process and be an integral part of it. Those parents have to be there because teachers, social workers come and go. The child reaches 18 or 21, and it's the parents who have a life long commitment.

That would be adoptive parents or birth parents.

Another aspect, the tremendous need for catastrophic health insurance to carry children and follow the children. We see that parent births we have been involved with, just the tremendous need for that. It can be devastating if this is, say, a third born to a family, a child has spinabifida, if at that time the primary breadwinner would be unemployed, again just to reiterate the need, some sort of catastrophic health insurance could be attached to every child that is disabled to an entitlement to the child and follow the fold wherever the child, a foster family or birth family.

Again, the idea of 504, our children, now Eddie, now working at a Stop-and-Shop, I thought it ironic talking about subsidies for adoptive families, Stop-and-Shop receives because they have employed Eddie, why couldn't families receive an additional, the same sort of thing, and they would receive that after he is 18 because he is multipally disabled, why can't families receive the same sort of thing, whatever we can do to encourage and keep and maintain the most critical aspect.

Something I know has been discussed down in Washington, the concept of a child ombudsman. If I could speak to that, I know it's been brought up at various times regarding Senate bill 1003. My understanding is that it really may not go this year. I feel it's an important concept. I would like to mention it at this time. The role that I saw for the child ombudsman would be a distinct office within every State.

The minute that the child who was severely disabled would be born, where there might be questions of whether or not to treat the child, the ombudsman could come, and a professional colleague to the doctor, to provide information to the parents. The number of calls we get for the simplest requests for information, it's maybe because the world of knowledge is just expanding so fast there isn't any one doctor or social worker that can keep up with it.

There is a child ombudsman similar to the Older Americans Act that has an ombudsman for senior citizens, where the person would be a real expert, and services out there for children to follow along after the family goes home. We do see a need for this.

It could also provide the possibility of adoption if the birth family feels they could not. That person would be there again, knowledgeable of all services available to the child. And speaking with one doctor, he was helped off the neonatal clinic outside of Boston. He did not know any children with Down's syndrome had been adopted. His world was too busy. That was, he had never heard, he truly thought the only two options he had to place before a birth family would take the child home and institutionalize the child or do not treat the child at all.

That whole other option of adoption in Westchester County, New York, they have a 2-year waiting list with children with Down's syndrome. It's again the professional ombudsman that would be in the State, that would be called immediately, could share this sort of chore.

I would like to say again, children with special needs are frequently described in terms of their deviation from the norm rather than with the attention to their abilities and interests and personality. Furthermore, children with disabilities tend to be viewed with medical indulgence; there is the assumption that if the child is in an institution their needs are being met. If a child is multiply handicapped in a hospital, all of their needs are being met. It is a very erroneous assumption.

None of our children when they came home could use the word "my." When Eddie came home the only thing with his name on it was his wooden leg. All the clothes, the nurses had gone through, we had a whole list of all the children, none of our children knew because the society that they lived in did not conform. This was his toy, this was his polo. I remember there was a pacifier in his bed. The nurse said when he was out eating lunch there was a little baby that used his crib for a nap.

He didn't have a bed that was his. Some of the emotional scars of being without families are the things which we find truly handicapping conditions in our children. The legs, arms that don't work, those things are inconvenient, those challenges the children can meet. Being without a family without that personality commitment on the part of one adult is a scar that they cannot overcome by themselves.

The challenge to all of us is to do everything that we can to provide permanent families for children.

Mrs. KENNELLY. Thank you. You must never hesitate to share your marvelous resource of knowledge. Only you, by experience, can give that to us, and I just thank you.

Your attitude is so marvelous. I know how well-known you and your husband have become. Let me express my gratitude to you and to other witnesses, Mrs. Lutz and Mrs. Bray.

Mr. Pease, would you like to ask some questions?

Mr. PEASE. Yes.

Thank you very much. I certainly enjoyed and profited from the testimony. I have just a couple of questions.

Mrs. Lutz, I was interested in your comment that children do not feel safe, and I am struggling to understand a little better in what sense they don't feel safe. I gather that it is not primarily physical that they don't feel safe—is that correct?—psychologically?

Could you amplify that for me?

Mrs. LUTZ. Yes.

In fact, we have a local therapist who helped me understand what safety means to a child. If a child is in my home, I would like to think that I provide them with excellent care. But they are not there permanently, and the unknown of where they are going is a very unsafe thing for a child to grapple with. They aren't safe in my home because it is not a permanent place for them; it is a foster home.

Mr. PEASE. When the law talks about safety, the law talks primarily about physical safety.

Mrs. LUTZ. The law talks about safety from an adult point of view—not from a child's point of view.

Mr. **Pease**. But the children look at it from the point of view of long-term security, knowing where they are going to be; is that correct?

Mrs. **Lutz**. That is what is important to a child—long-term security. As Rachel indicated, an adult that they know they can count on for the rest of their lives.

Mr. **Pease**. So I gather you would say the emphasis then ought to be on, as I think you indicated, reducing the period of uncertainty as much as possible for children, making that period as short as possible.

Mrs. **Lutz**. Absolutely; because as long as it is allowed to go on endlessly, which it is—we have laws, we have policies, and they are all written with the best intent. Unfortunately, it seems to be difficult to implement them, so what happens is that the children end up waiting long periods of time.

As an example, I have two children in my home now, a brother and sister siblings, who have been waiting for over 3 years for the court to terminate parental rights and for them to be adopted. This was a plan, on the part of the department, after they were placed in my home for 6 months. Everyone was concerned that the parents of these children would be unable to ever provide them with a safe home; and yet, it took another 2½ years to free those children for adoption.

There are rulings, as Louise indicated, that within 90 days papers must be filed in court; the court must guarantee that a court date is assigned within 30 days; and the court dates are definitely assigned. Of course, they are continued and they are continued, and no one says anything about the amount of continuances you can have. No one says anything about when this must be heard.

I understand there are situations when more time is needed, but I don't feel that these continuances that take place in our court system ever consider the needs of the child—not ever. It is never the child that needs a continuance; it is always one of the adults.

A lawyer has a more important case scheduled in a higher court where he receives perhaps better compensation. Judges are rotated, so if their period for rotation is about to come up they are certainly not going to get involved in a lengthy termination case. So it is continued. Lawyers don't show up; parents don't show up. We have a child whose case was continued 11 times because his mother failed to show up.

Children don't ask for the postponement, and they are not safe as long as we adults continue to dally with their lives.

Mr. **Pease**. I think that is a very good statement and a very accurate one.

A couple of weeks ago I had the occasion to visit the Domestic Relations Court in my home county. It was incredible to me how busy it was, how many people were around there. Clearly, that is an overloaded court. So there are reasons for the delays.

I know a lot of lawyers routinely think in terms of postponements and continuations for even the most trivial reasons. I wonder if you might look at that in terms of Ms. Rossow's idea of an ombudsman? Is there any thought at all of an advocate for the children to go into court and say, "I object to a continuation," or challenge the basis for a continuation?

Mrs. **Lutz**. It is my understanding that we in Connecticut have a CIP program in effect and that there are people who monitor the courts. I, myself, am not terribly clear about what it is they do because they do much more for the children in my home.

Mr. **Pease**. Anybody else?

Ms. **Rossow**. I know that particular program. What they do, in our situation, they call to find out how many visits or how many times the family contacted again with Roy.

Mrs. **Lutz**. Are you in contact with them? How do they know to contact you?

Ms. **Rossow**. The court program where there is a volunteer that comes. Apparently, they were assigned to the courts.

Mrs. **Lutz**. Perhaps my children aren't worthy enough to have anyone assigned.

Ms. **Rossow**. This is brandnew. But they are very thorough. And what they do is seek information to take back to the judge to make a decision on—the number of visits, the number of overnights, have the things that the judge had written down at the last time they have been followed through by the birth family, so they are better equipped to make a decision. And, again, it is a help to a social worker, too, to provide again one more piece of the pie for the judge to make a decision.

Mrs. **Kennelly**. Are those volunteers?

Ms. **Rossow**. Yes.

My understanding is that they really have provided a very real service, and this is the first time they have been involved with one of our youngsters that was involved with it. But my understanding is that they really are providing a real service. I think it started by going through records and again things that social workers would like to do, but don't have the time because of their caseloads. So they really are providing a necessary service for the children, at the same time.

I would like to just really stress that time factor. Even if a child is in a family that is accepting and all this, if they are foster children—and we see this within our little Roy. It is so sad; we go to have a family picture taken, and he can't be in it. We cannot get permission. There is a divisive factor that is always there—until the decision is made, that either we could adopt him or support the birth family to have him taken back.

I think the thing that is so critical for all children is that they are able to really bond with someone that they know is going to be there. The words like "commitment" and "permanency," to me it gets down to bonding that this child and this adult would really become one. And bonding together is the most marvelous situation where the product is much greater than the pieces that you start with, because every one of us that have ever loved anybody knows this is energy, and there is a maximum of both, and you end up again where 2 plus 2 equals 25 instead of 4.

That is the kind of inner strength and courage that the children need, and that is what they receive from the permanency and adoption and bonding, and whatever it is that goes into it.

Mrs. LUTZ. A foster home cannot provide that, you must understand, if you understand nothing else. We cannot provide a child with a sense of permanency and belonging. All we can do is do the best we can for them while they wait.

Ms. ROSSOW. Unless the decisions are made——

Mr. PEASE. I don't want to monopolize the questioning time, but I would like to pursue one more point, and that is to ask whether there is some sort of tension involved in the concept of returning the child to his natural parents, and whether there is a need for as short a time as possible before the child knows what the situation is going to be.

In many situations, I would think, where the child is taken out of the home, it is because there is some problem in the home. How long do you wait to see whether that problem is resolved before the decision is made to terminate that relationship and try to seek adoption or other permanent placement? In other words, I see a tension of sorts if you wait 1 year or 2 years or 3 years to see whether the natural parents can get their lives together and be in a position to accept a child back in the home.

So when the child feels this lack of safety to which you refer, is there that tension, and what can be done about that?

Ms. ROSSOW. I would like to add a footnote.

There is also a third option; that is the situation where it is not—I realize I am talking about a unique aspect of foster care—the situation that we have been involved with, the family stayed intact; the siblings stayed intact. It was because the child has multidisabilities, that the child is seen as a problem and the child is removed from the family; the child is never brought home from the hospital. That is a different situation.

The families go on intact. It is the child that has been removed. I believe that is totally different.

Mrs. LUTZ. It often happens to children who have other handicaps other than physical handicaps. It is not at all unusual for there to be a child that leaves the family—would you not agree?—and that other children stay in the family?

Ms. ROSSOW. It is viewed that the child has the problem—not the family has a problem. So that the family—again, that is where in my mind there is a third option of whether or not a family could care for a child's special needs, which in dealing with birth families that have made the decision not to continue parenting their own birth child, that is the way we explain it to them, and that is the way they seem to be able to accept it much better and then to go on with their own lives.

Mr. PEASE. As a general rule, if you have to tilt in one direction or another, do you tilt in the direction of allowing as much time as possible to see whether the natural family unit can be united, or do you tilt in the direction of making a decision earlier on so that the child will know what the situation is?

Mrs. LUTZ. I think what I am saying is that the decision should be made before that child is ever removed from the home. What we need is much greater service to natural families, to a child in a natural environment. As soon as we move the child from that environment, we are creating a new kind of life for them. Either it is adoption or foster care.

But what I am saying to you is, we need help to provide service to these families in a crisis. Lots and lots of service. With the handicapped child, to enable parents to understand what the disability is, before they have the child removed. For the people in crisis, the help and the rehabilitative services really need to be provided while that child is still in the home.

We shouldn't remove a child unless we plan to make that move permanent. That is what I am saying. That is not what we do. That is what I think we should do.

Ms. **Bray**. I have seen for myself the children are coming in and the first thing I will do is ask what is the treatment plan. It is like the minute they walk in the door, I want to know what the plan is for this child so I know where I have to be working from with this child, whether it is to be returned home; just all the simple things we need to know. From there, lots of times they can't even tell you, begin to tell you where the case is going to be.

Within those first 75 days, usually something—some type of definite plan is made. I am finding more of the children I receive go home; they are not staying in care as long. I don't know if it is an area I am in or what, but that is what I am finding.

When I started being a foster parent, children stayed in my home for like 5 years easily; 3 years was simple. Now it is probably 3 to 6 months.

The problem I find is the court system. It is the most atrocious thing that can happen to the kids—to get caught in the courts. If a kid can stay out of the courts, he is much better off.

Even to go for commitment, it is not necessary, a couple more months in care, and then the child can be returned home to a natural family and not have to get tied up in the courts with all these hearings.

Like Kathy said, the delays are terrible. I mean, two attorneys have appointments at the same time; judges don't even show up for hearings. Hearings are scheduled on days where there are elections. I mean, it is atrocious.

You are supposed to go for a commitment within 90 days. I can see it scheduled. It took one of our children 6 months to get committed. So there is 9 months out of that child's life before anything can even be done to even start the process.

We knew termination was going to be the process there. Now you have to wait another year before you can even go for it. It is just the courts hold it up. Then the judges take any time they want, actually any time. They could take from 1 day to 1 year to make a decision on a case while that child sits in my home. And I have seen one child that waited 6 months for a decision for termination, and I mean that is 6 months he was waiting to be adopted.

In that time, like Mrs. Lutz talked about, those children do bond; they bond to us. And that, to me, is the worst thing that can happen to that child. In one respect, it is good that he can do that; but in another way, it hurts that child much more when they have to leave us and go on living a life that they don't know anything about. They sit with us and bond to us feeling we are their family, psychologically and physically. But then the day comes when they are just pulled out. It does make it very hard on them.

Mr. **Pease**. Thank you.

Mrs. KENNELLY. Mr. Rohde spoke about the difficulty you have in training parents to do something, or what you do that could make more parents available to take disabled children.

Ms. ROSSOW. What I have seen has been a real evolution within the last really 12 years. The schools have become much more able to understand children with disabilities; society has. The children cannot. They can now get into churches; they couldn't 3 years ago, or even last year. There has been a lot of evolution within our country of accepting people who are a little bit different.

All this has a spinoff to the family. I think some of it, as far as a place to go to find specific kinds of help—I was thinking about the footnote to what they were saying. Somehow if we could get people to talk to one another—when I talk to the probate judges and ask him the exact questions here—and I know particularly from one I know is extremely consciencious and very aware of the urgency in a child's life to make a decision, and he will say, "But all I need is for the social workers to say yes, they can guarantee that some kind of permanency plan would be in place for the child."

I believe there has been some confusion on a court interpretation as to whether or not an exact adoptive family has been in the wings for termination of parental rights. How you clarify it and how you talk to the people that make decisions, I don't know. But it seems like somehow I hear communication, because when you talk to the judges, some judges will be very aware of this. But I also have heard social workers say they cannot place a child going for termination of parental rights because they do not have an adoptive family. They feel they are in a catch-22 situation. They cannot find an adoptive family until the parental rights have been terminated. It is a catch-22.

There are ways, open, creative ways, that people are trying to approach this. But somehow if there would be a way for the workers and judge and to sort of get together and just sort of communicate with one another, I think that would help the situation. And the attorneys and everyone sort of involved.

But then to go back to the specific question, how can families receive help, truly the biggest thing and the places that we have received the most help personally, has been from people that have just accepted us as a family and our children as children, and treated them as children, and then the special needs again end up being inconvenienced; that, yes, we need title XIX desperately to pay for an electric wheel chair.

I mentioned 94-142. We know, for families have had to literally sue States to have an education for children they knew was academically talented, but had cerebral palsy, to make sure things that are on the books stay intact and, at the same time, help all of us to look inside of ourselves and realize how can we expand our own view of a person who is different and accept one another.

The rippling effects are tremendous, and in our neighborhood a wheelchair is as ordinary as eyeglasses. It is beautiful to see. If very nice things happen—but, as I say, the part that has been so helpful—the teachers that have been helpful teachers that accepted our children where this—and try to lead them to the next step—it was not necessarily special ed teachers. But I do see the need for professionals maybe to have a place to go for—and that again the ombudsman, to me, if there could be a person that was a real professional within children disabilities—I know these are all over—but the Baby Doe line there was a hotline. There was a call to the child with a brain stem and the person answering the telephone thought that the child was brain dead. And there are totally different situations. And yet, the person answering the telephone could not make that distinction.

If there were an ombudsman in place that really was knowledgeable of children disability—that is, could give out accurate information to the family—I would love to see video tapes when children are born or the family is interested in adopting a child with spinabifida, what they might expect when the child is 10 and 15 and 25, of having them in school and the workplace. And I see where a lot of things could be done.

Mrs. **Kennelly**. Thank you.

Kathy, you say a child should not stay in the home longer than 6 months; a dispositional hearing should be up to 18 months.

Do you think there should be dispositional hearings after 6 months?

Mrs. **Lutz**. I think that in order to change when we had a dispositional hearing we would have to change at what point we placed the child in foster care. I think that we place children in foster care sometimes too soon. And we offer to help the family after the child has been placed. The help should be offered to a much larger extent before.

No, I don't think it can be changed to 6 months. I think that 18 months in our current system is probably reasonable. But I would hope that we would find a lot more funding sources to work on prevention before we rip a kid out of their home.

Mrs. **Kennelly**. I got your message.

Mrs. **Lutz**. I must go because I have a child who has a doctor's appointment at 12:30 at Yale that took me 2½ months to get.

Mrs. **Kennelly**. We are going to bring the next panel on so everybody can share their information. Thank you.

Mr. **Pease** [presiding]. Mrs. Kennelly has been asked by the Governor to accompany him on a brief helicopter tour of the flooded areas. She will be back very shortly.

Let's begin with Ms. Gadsden.

STATEMENT OF ELLARWEE GADSDEN, DIRECTOR, ISAIAH CLARK CLINIC, CHILD AND FAMILY SERVICES, INC., HARTFORD, CT

Ms. **Gadsden**. Good morning. My name is Ellarwee Gadsden, and I am the director of the Isaiah Clark Family and Youth Clinic. It is a family and child mental health clinic, a branch of Child and Family Services.

Today, I will be focusing on the child welfare aspect of working with at-risk children.

My point of view will be that of a line supervisor responsible for the supervision of line staff whose daily task is to attempt to keep these at-risk families together. I have worked with this at-risk population for almost 16 years, both here in Connecticut and New York.

Over 25 percent of the clients we see at the Dr. Isaiah Clark Clinic fit into this at-risk category. They are considered to be at risk because they often share some similarities:

One, most of these families are headed by young mothers who had their first child as a young teenager; two, most are on welfare; three, they have poor parenting skills; four, minorities are overrepresented; and, five, they are involved with the Department of Children and Youth Services' protective services; either because there are young children who are already in foster care at the time of the referral, or they are at risk of entering the foster care system.

Our goal has been to attempt to keep families together in the long run. I know we all agree that all children ought to be raised at home with their families, or if for any reason they have to be removed from the home, they should be able to return to their families as soon as possible.

Unfortunately, at Clark Clinic, we have found these goals to have been admirable, but difficult to achieve. The difficulty comes not from an absence of skills, desire, or commitment to do the job, nor is this type of client impossible to work with.

The difficulty, as we see it, comes from the lack of demonstrably clear financial commitment on the part of those who have the power to adequately provide the necessary resources to get the job done.

Our experience has been that the types of at-risk mothers who most need our services are those who require an extra effort on our part to help. In most cases, these mothers are wary and mistrustful of social workers.

This mistrust, coupled with their having children who are very young, requires that we aggressively reach out to them. However, home visits, a standard outreach approach, is not reimbursable through medicaid in the State of Connecticut.

This forces my agency to subsidize, from its limited endowment, the costs of this important service. Most of these young mothers simply do not know how to be parents.

Child and Family Services, Inc., has parent aides who have repeatedly demonstrated their skills in teaching parenting. However, obtaining funds, either public or private, to pay the parent aides for their proven ability to go into these homes in order to teach these young women how to be better mothers, has also been extremely difficult to accomplish.

Child and Family Services, Inc., has funding to provide for only two part-time parent aides to serve more than 100 such families referred to us each year.

Many of the children in these at-risk families have difficulties in school. The causes of these difficulties are often psychological, aggravated by environmental deprivation. We know that what is needed is a close, ongoing collaboration between our staff of social workers, psychologists, oftentimes the psychiatrist, teachers, and various other school personnel.

We receive no medicaid reimbursement for the services that worker provides when she goes into a school to observe the child's behavior, works with the teacher to develop a plan to help the child reach his/her full academic potential.

Again, the agency has to pick up the cost for a service that we know to be both effective and necessary.

Many of the children in these families cannot get along with others of their own age. Our agency has developed group treatment strategies that deal effectively with these problems. Moreover, in order to do what we know to be proven and effective, the agency has had to look to its own resources to purchase and maintain vans to transport these children to group session. Funds from the State are virtually nonexistent for this very important service.

Last, but most important, we need to address the issue of prevention. Americans have long valued education; have believed that through learning, being taught, one can improve one's future, become more prosperous, succeed.

But for some reason, we are reluctant to apply these beliefs and aspirations to the areas of child-rearing and parenting. The fact of the matter is that today's children neither know as much as we think they do, nor as much as they pretend. I am not talking about sex education, but life education.

At Clark Clinic, we visit inner-city schools, addressing various grade levels, talking with children about why kids have babies, why mothers end up on welfare; that they don't have to allow anyone to touch their bodies if they don't want to; that they can succeed in spite of their environmental handicaps.

We have outreached to young mothers in job programs, who are trying to get off welfare, to let them know that there is help in the community for them when the pressures of working and raising children seem to be more than they can handle.

This service, as with the others, generates little or no revenue for the agency, but because we know the services are valuable, and needed, the agency underwrites the costs so that these services can be offered and provided.

We understand there to be a combination of factors which have contributed to the paucity of funds available to provide the types of services that have just been described. We cannot afford to let this situation continue.

We must remember that in the long run, it costs us more to maintain children in foster care indefinitely. It costs more to maintain these mothers on welfare indefinitely. It costs the community more to maintain those who are adult products of these at-risk families in jails and prisons.

If we commit ourselves to contribute our time, effort, and money now, it will cost us much less in the future. We must invest in our children. They are our future.

Thank you.

Mr. **Pease**. Thank you very much for an excellent statement.

Our second witness will do me a great favor if she will help me in the pronunciation of her name.

STATEMENT OF JEAN ADNOPOZ, M.P.H., FACULTY MEMBER, CHILD STUDY CENTER, YALE UNIVERSITY; EXECUTIVE DIRECTOR, COORDINATING COUNCIL FOR CHILDREN IN CRISIS

Ms. **Adnopoz**. I would be happy to. You didn't do it badly. I am Jean Adnopoz of Hamden, CT. I am the executive director of the

Coordinating Council for Children in Crisis, a private DCYS supported program offering a range of support services for at-risk children and families in the greater New Haven region.

I am also a faculty member of the Yale Child Study Center where I am the coordinator of the reunification program, a major collaborative effort involving the child study center and the Department of Children Youth Services. It is this project and its initial findings which I would like to discuss today as a member of this hearing panel.

I would like to begin my remarks by echoing those of others here today who have already spoken of the importance of Public Law 96-272 to our efforts to improve the quality of life for children and families in this country.

The act is conceptually based upon some of our best knowledge of the needs of children and deserves our continued support and enthusiasm.

My purpose here today is to share with you some of the results of the DCYS-Yale Child Study Center Reunification Program which has offered us in Connecticut a unique opportunity to focus upon children at risk of placement as well as those already in placement to test new models of service.

The reunification project is a 2-year, federally funded—title IVB—demonstration program which has been implemented in two service regions of the State, Bridgeport and New Haven.

The primary goals of the program are the reunification of children in out-of-home placements with their biological parents and averting placement.

The intent of the program is to create a range of innovative service options which will be evaluated for efficacy, reviewed for their policy implications and hopefully, replicated throughout Connecticut when appropriate.

Some of the programs which we have funded in our attempts to create innovative means to maintain family integrity and to provide a sense of permanence for children are: Specialized parent aide programs targeted toward substance-abusing caretakers; therapy groups, co-led by DCYS workers and outside mental health professionals for latency age children in long-term foster care, for adolescents reunified with their biological parents and for parents of children in DCYS institutions; intensive support services for foster families willing to serve adolescents and work with their biological parents; cash payments to biological parents and short-term diagnosis, assessment and intensive treatment for families at high risk of disruption and placement.

We have already identified the following among a growing list of policy and program implications, all of which are relevant to today's discussion of Public Law 96-272.

As we have reviewed cases of children in placement, all of us working in this project have been struck by the number of children presented to DCYS for placement who were born to adolescent mothers, some as young as 13 years old, who were isolated and without any community or family support.

Although many of the children of these mothers did not come into the DCYS system until adolescence, they were basically denied adequate parenting throughout their lives.

Many adolescents and parents lack the capacity to consistently meet the physical and emotional needs of their children. Programs which help increase self-esteem, offer a sense of hopefulness and provide an opportunity for self-sufficiency may improve mother's self-image and subsequently improve the quality of her relationship with her child.

The programmatic implication of this finding are vast. Additionally, the facts speak to the need to provide family support programs as early in a child's life as possible, and to strengthen the network of prevention programs, which includes systems other than the child welfare system.

I expect we will recommend that permanent foster care be given legal status as a placement option in Connecticut. For some children in placement, reunification with a biological parent is not a reality, but termination of parental rights is also unrealistic.

For these children, permanent foster care presents the most stable placement alternative possible. Permanent foster care would give the child and the foster family a sense of permanence and self-determination, it would also help to reduce the number of children in the active DCYS caseloads.

We have also discussed the use of legal risk placements in which a child is placed with a family which is prepared to adopt the child if the child is legally free for adoption. The overriding presumption in these cases is that parental rights will be terminated and that placement in the legal risk home minimizes the placement possibilities and allows the child to experience a sense of permanency as quickly as possible.

The need to professionalize the foster parent is part of our child welfare rhetoric. However, we have to continually work toward this goal. This will require additional professional support to foster families, either from DCYS directly or by contract from private agencies.

Our project suggests that financial payments to foster parents separate from payments related to the child's needs might avert some placement disruptions and reduce current difficulties in recruiting appropriate foster homes.

We will also support cash payments directly to biological parents for purposes such as security deposits and furnishings.

Collaboration and linkage between community, home, school, and placement programs is necessary if children in placement are to receive any benefits or for society to achieve any cost benefit from our costliest interventions, out-of-home placements. Too many children are returned home without adequate support or without family or community involvement in the process.

It is unrealistic to expect to return a child to an unchanged or uninformed environment and expect that any gains made by the child while in placement will be maintained.

These are but a few of the issues with which the Reunification Program staff has struggled. Our project is still under way, our final report will be available early in 1985. Even now, we can say that our knowledge of what children and families need for health growth and development is extensive.

Public Law 96-272 allows us to implement this knowledge constructively and usefully.

Unfortunately, there is inadequate funding available for us to do what we know how to do at the level at which it must be done. Therefore, we urge that the Congress allocate the authorized funding levels of $226 million for this act. We can do no less for our children.

Thank you.

Mr. **Pease**. Thank you very much.

Mr. Dunne?

STATEMENT OF MICHAEL J. DUNNE, DIRECTOR, PLACEMENT PROGRAM, CHILD AND FAMILY SERVICES, INC., HARTFORD, CT

Mr. **Dunne**. My name is Michael J. Dunne. I am director of the Placement Program for Child and Family Services, Inc., a private nonprofit multifunction social service and child welfare agency serving the greater Hartford area.

I would like to focus my remarks today on prevention of out-of-home placements, and the question of adoptive placement of children.

It is no surprise that the cost of preventing placement of a child is a very small fraction of the cost of carrying out such a placement away from home.

The Adoption Assistance and Child Welfare Act deserves a lot of credit for helping to focus attention on keeping children out of the child placement system, as well as finding permanency for those already there.

There are two kinds of prevention that are still, however, underserved in Federal assistance; one because Public Law 96-272 has never been fully funded, and the other because funding authorities have never adequately addressed it.

When some parents react to problems of life that have become overwhelming—poverty, unemployment, lack of education, lack of child-raising skills, poor housing—by becoming violent to the perceived cause of their distress, their own children, a fairly common societal response used to be to remove the children into the foster care system, often creating one problem to solve another.

How much more efficient it is to bring needed resources within reach of those parents before the child is removed. Not just within the same community, but within the family 's own home.

That kind of preventive resource, such as Parent Aides, has been proven to be highly effective. Its only drawback is there are not enough Parent Aides to meet the need. These people—most of them are women, from the same economic background as the clients they serve—go to the homes of families who are at risk of losing their children.

They teach parents how to cope by talking and by doing it themselves. They counsel with the parents. The results, in the pilot programs already operating in Connecticut, speak for themselves.

Families improve in their functioning, and children stay at home, no longer at risk of removal.

Child and Family Services operates a small Parent Aide service, and we know one thing about it. It works. Ellarwee mentioned that the agency from its own funds subsidizes two Parent Aides. I don't believe she made clear that because of the limitation of funds, those are two half-time Parent Aides. That is the best we can do.

There is no question that if Public Law 96-272 were fully funded, and more funds made available to invest in services such as Parent Aides, far fewer dollars would be spent on child placement itself.

There is another kind of service that isn't mentioned much in the literature, but the need for which we at C&FS have become acutely aware of.

All of the clinical, preventive and supportive services in the world do very little good to overburdened families if the families can't get to them. For example: a young woman, overwhelmed with crises, is labeled as an abusive mother, and her children are removed temporarily. A case work treatment plan is set up with the approval of the court, and she learns that, to have her children returned, she must attend weekly clinical family therapy sessions; meet periodically with her Protective Services social worker; attend regular meetings with the court monitor; visit one of her children in the residential treatment center; visit the other two children in their foster homes; maintain good attendance at her State-sponsored job training course; and do all this without a car, relying on public transportation.

In most large cities, for someone already under stress, that is a virtually impossible task. For years, Child and Family Services has had to maintain a full-time driver and car to be able to serve many of our clients. I don't think that kind of problem is unique to our clients. I do think that it is not adequately addressed in Public Law 96-272.

The second issue I wanted to address is adoption. There are times when, despite our best efforts at prevention, it finally becomes evident that there is no chance for the child's family to meet his or her unique needs, and the child must be placed into an adoptive home.

That determination is made very carefully, usually in a collaboration of child welfare workers, the courts, and surprisingly often, the parents themselves.

Then begins the process of finding and preparing a suitable family for the child, preparing the child himself or herself for the placement, bringing them together, and then working to help maintain that adoptive placement for perhaps years to come.

The increasingly thorny question, though, is around the fiscal support of these services. The traditional system of adoption financing—an adoptive family paying a sizeable fee to an agency who places a child with them—breaks down when the child is an older, acting-out, handicapped, hard-to-place child. Either the family simply cannot afford the fee or they refuse to pay a fee to adopt such a child.

Funding priorities in this area of service seem to be shifting away from the private sector. United Way feels that adoption services are not a private-sector responsibility. Some authorities in the public sector are slow to make use of the many resources available within the private sector. There are non-Federal moneys currently available to contract for special-needs adoption with private sector resources that the State Department of Children and Youth Services are not fully utilizing.

If this trend continues, the result may be a two-tiered adoption system: Those private agencies who survive may be forced to cater exclusively to families wealthy enough to pay the entire cost of adopting a child, and it will be a very "desirable" child indeed. Children with special needs, or handicapping conditions, will become the exclusive responsibility of an already heavily burdened public sector. That would not be a healthy situation, but the beginning trend seems to be there.

In these areas: more adequate funding to provide further development of preventive services, and encouragement of initiatives in transportation and further utilization of the resources within the private sector, the Adoption Assistance and Child Welfare Act can build further on its already impressive record.

Thank you. It has been a privilege speaking to you today.

Mr. **Pease**. Thank you, Mr. Dunne.

Mr. Nagler.

STATEMENT OF STEVEN F. NAGLER, DIRECTOR, FAMILY LIVING DEPARTMENT OF THE CHILDREN'S CENTER, CENTER FOR THE ADOPTIVE COMMUNITY, HAMDEN, CT

Mr. **Nagler**. Yes, my name is Steven Nagler, I am director of the Family Living Department of the Children's Center in Hamden, CT.

I would like to thank the committee for the opportunity to speak today. One of the major areas of impact of Public Law 96-272 in Connecticut has been to the adoption of older and special needs children. I would like to use my time today to address this aspect of permanency for children.

The Center for the Adoptive Community is a program of the Family Living Department of the Children's Center in Hamden, CT, which provides individual, family, and group psychotherapy to adoptees, adult and child, adoptive families, and birth parents throughout the State of Connecticut. We have been open since October 1983.

As the only program of this kind in the State, we have received a number of referrals of families who have adopted older children and who are experiencing adjustment difficulties.

Although the program is too new and too small to have served a very large sample of these families, there is already a pattern of cases which suggest to me a constellation of timely supportive services which are crucial to the success or failure of these high-risk adoptions.

I would like to give you two thumbnail sketches of families we have seen, disguised for confidentiality, which, I hope, will illustrate what I mean.

Frank was 14 years old when we first saw him. He had been placed in a prospective adoptive home about 1 year before the referral. At the time of referral, Frank had run away from his adoptive home a few weeks before the adoption was to be finalized.

Frank was living in an emergency shelter when he first came in for treatment.

Frank could not tell his adoptive parents that he wanted to return home, although he did want to. He could not tell them that his running away just before finalization was because he was frightened that they would not want to go through with the adoption. But he was frightened. All Frank could say to them was that he didn't think they wanted him back and if they didn't want him than he certainly didn't want them.

Frank's adoptive father told me that although he would miss Frank, he could not subject his family to the stress and pressure that Frank had caused while he was living with them.

Father said that he only realized how much pressure they were under since he had felt the relief after Frank was out of the home. Frank's mother simply said she had no more to give him.

Briefly, Frank was abandoned by his biological father at 3 and by his biological mother at 9. He had a history of rather minor delinquency, a residential treatment placement and a foster care placement before he was placed for adoption.

Not surprisingly, Frank was a needy child who tried to keep the world at arm's length to avoid being hurt again. When he was placed there was not a support group available for Frank's parents in their area, neither was there a family therapist experienced in these types of cases available.

Frank's case worker did what he could in the short time between the selection of the family and the actual placement to prepare them for their experience together.

By the time we saw Frank, it was too late. Frank and his adoptive family met once in my office to say goodbye to each other. It was an awful hour. Frank returned to the shelter alone with his worker, having lost his second or third family, depending on how you count.

John was 9 at the time of placement. He, too, had been abandoned by his father. He had been abused by his mother and removed from her custody at about age 6. At the time of this placement, he had already been through two foster homes and a failed adoptive placement.

Prior to this placement, John was seen once or twice a week by his worker for several months. They explored feelings and fantasies about his past and future. They made a life book together.

Prior to the placement, John's prospective adoptive parents met weekly with his worker and John's foster parents. They were referred to a support group and had made an appointment with a family therapist who would work with the family from the time John arrived.

John and his family were visited by their worker regularly for the first several months of placement. They attended several group discussions and workshops on adoption and adjustment at the center. John's adoption was finalized after about 1 year with great family celebration.

These two vignettes are fragmentary, at best. However, I hope they illustrate that adoption is not an event but a process. Especially for older children, adoption must be considered a high risk, somewhat fragile process which demands close attention and support.

I believe that the difference in outcome for Frank and John was not in their ages, or their psychopathology, or even in the capacities of their adoptive families. I believe that the difference in outcome for these two boys lies principally in the amount and availability of pre- and post-adoptive services for the boys and their families.

I know both case workers. Both are dedicated, competent people. Frank's worker had a large protective services caseload and was often forced to respond to the emergency nature of his other cases and to assume, against his better judgment, that no news was good news from Frank and his family.

John's worker came from an area of the State rich in private agency resources. Frank's worker came from an area with many fewer services available. John's worker had a smaller, focused caseload and was able to devote the time to preparation and prevention that Frank's worker was not.

I believe the difference was not in knowing what was needed but in being able to provide it.

Public Law 96-272 has led us in the right direction. Children do deserve permanent families. We are better able now than ever to find families for children. We are better able now than ever to identify many of the interventions useful and necessary to support families—biological and adoptive—and to reduce the rate of failure and disruption in high-risk adoptions.

We need help to provide these resources. Full funding for Public Law 96-272 could go a long way toward providing these services so that when we tell a child, as we often do, that we will help him find a "forever family" we can really mean it.

Thank you.

Mr. **Pease**. Thank you very much, Mr. Nagler.

I think we have had excellent testimony from all of our witnesses.

I would like to ask just a couple of questions. I think there is a common thread which runs through your testimony. It is that there needs to be more adequate support in the process of adoption, and that really translates into more funds and more resources. I think each of you has mentioned that full funding of Public Law 96-272 would help, but it seems clear that that is not the only answer; there is additional funding beyond that that would be required.

I must admit to a little personal despair from time to time. It is obvious from your testimony and that of many others in similar areas, that we know what to do, but we don't have the resources to do it.

I think Mrs. Gadsen mentioned there is no medicaid coverage for home visits. We don't have any funds available to teach parenting to teenage mothers; we don't have adequate funds to visit inner city schools to discuss and to educate children in general.

Someone mentioned inadequate support for the parents to which children will return for foster care, and so on.

Now, my source of frustration and despair is Federal deficits that we must deal with, and the often corresponding deficits or tight financial situations of State governments, county governments, and city governments.

I think all levels of government have had problems traditionally, but it seems to me that the cutbacks in Federal budgets over the last couple of years have initiated a ripple effect that has trickled down, to use the trickle-down theory, in a different context from which it is usually used, and at this time, end up affecting the financial or fiscal situation for States, counties, cities, and private agencies.

Now, to be honest, I do not see that situation being reversed. The $200 billion deficits with which we are plagued are projected to go on and on and on and we in the Congress think we are doing well if we are able to prevent additional cuts in Federal funding which the Office of Management and Budget and the President often suggest to the Congress. But preventing a further erosion of the Federal funding is not the same as providing full funding for Public Law 96–272, or other Federal acts, which brings me down to the question which I hope you will address.

And that is, essentially, what are the implications for programs such as yours? If we must admit that there is unlikely to be additional funding at any level for the kinds of additional support which you have been discussing, does that mean that we need somehow to change our strategy, the overall philosophy with which we approach this problem? In other words, is an approach that we are following now able to be successful only with a certain amount of funding for support services?

And if that funding is not available, do we need to abandon that strategy and go to some other one, which would not be as ideal, but also would not require for successful implementation the kind of funding that the current strategy would require?

Ms. GADSDEN. It is interesting that you have asked that question. I just took a course this past semester at the University of Connecticut called Issues and Trends in Social Work Administration, and that was the crucial point, I think, that made me aware of how serious the issue was of lack of funding, and that the fact of the matter is at least in the short run, it doesn't seem likely any money will be coming down the pike. I think that what we have to have courage to do what needs to be done and courage doesn't cost money. We are going to have to establish priorities both on a legislative level and on an administrative level.

We are going to have to say what is more important than what. My position is, I think the position of all of us is, our children are important.

You know, sometimes when you open a paper and you find there is $8 million, a $20 million bond issue for roads, and we are groveling for money, it becomes obvious everybody doesn't share my position, but I think that is where I see our thrust coming from, to advocate and to push for a reordering of our priorities.

We recognize difficulties when people are coming behind us trying to snatch our purses and we can find money to deal with them then, OK, so I am saying maybe we need to reorder those priorities and it is not to say that veterans are not important or roads are not important, but if you only have a limited amount of money, then you have got to put your money where your future is.

When we look how it is that somehow Japanese management has bested us, we see one of their focal points has been investing in their future, and I think if we tend to be present-oriented, short-run oriented, we are going to perpetuately have these kinds of difficulties.

We have to pay more than lipservice to the value of families in this country, we say it, motherhood, apple pie, but we don't put our money where our mouth is, I think that is to order your priorities. You take the given pots of money you have now and put it into that investment, based on the priorities.

Mr. PEASE. Would any other panelist like to comment on——

Ms. ADNOPOZ. Faculty members of the Child Study Center have been concerned about those factors which are of primary importance in the developmental life of a child, and in how that knowledge is used to establish a continuum of care that enables the Department of Children and Youth Services to make available within the system the services that are going to be most needed at the point when they can be most effective.

And although I think the Department's aim is eventually to do some shifting in terms of funding so that it can place considerably more emphasis upon preventive services, the early part of the continuum, it will take years before the State will be able to tip the funding pool in favor of supportive in-home care. However, it is certainly moving very specifically in that direction.

With all that has happened here, I believe that Connecticut can serve as a model for the rest of the country in terms of examining priorities for kids and basing service upon understanding the developmental needs of children. It is this knowledge, after all, which Public Law 96-272 is based.

Mr. PEASE. Thank you.

Mr. DUNNE. I think I would add that one of the things that happens when money is tight, is that we get clever in how we use it. At the same time that we are down here asking for more money, we're also back in our shop trying to think of more efficient ways to use the money that is available to do the job that we see needing to be done.

I think that is a good effect. During the 20 years I've been a social worker, up until last year, I never wrote so many grant applications in my life as I have this year, some of which even get accepted. The problem is that most of them were very short-term in nature.

We establish an innovative pilot program that can meet a lot of needs, but it might last only a year. Most foundations with fairly rare exceptions don't want to see you coming back next year, and the next year, to fund the same program. It makes a good investment, but following through with capital to keep it going is a worrisome problem.

Mr. NAGLER. Yes. I would like to just add that since you have asked us a hard question, maybe I will give you a hard answer, in the sense that I appreciate that there are people who are smarter than we are, who can come up with better and cheaper strategies in terms of meeting the needs of children in the era of a $200 billion deficit.

On the other hand, it strikes me that 1 of 16 MX missiles could pay for a lot of this and I think that as we are asked to make priority choices—no news to you—we turn back to you and say the Congress and the nation must make priority choices, and that it need not be social services, child welfare that foots the bill and takes the cuts.

Mr. **Pease**. I thank you very much.

That reminds me of a recent hearing on unemployment compensation for which there is never enough money. I made the suggestion we might denominate unemployment compensation in units of MX missiles, deduct one MX missile and add so many for our unemployment compensation.

Well, we need to move along. Let me ask a couple of quick questions.

Ms. Gadsden, do most of the teenage mothers that you work with in turn live with their own parents?

Ms. **Gadsden**. Yes, they do. I did want you to know all the mothers were not teenagers. They were teenagers when they had their children. They tend, most of them, to be young adult mothers. They behave as teenagers and they are still at home with their parents. And often people say we have generations of people on welfare. The fact is all the generations exist at the same time in the same home and that is the kind of situation I'm describing. That is one of your better ones, because you use the strengths within that family, hopefully, to get the grandparents to help nurture and support, keeping the grandchild in that case, within the home.

Mr. **Pease**. With respect these teenage or young adult parents who live with their parents, are the parents helpful in teaching parenting, or do they themselves have major problems?

Ms. **Gadsden**. Well, it depends on how young they are. Usually these women, the grandmothers, are over 40, and they have had a history of difficulty, but fortunately, most of us do mature and do gain experience and so do they. The conflict usually comes with the girl wanting the grandmother (her mother) to take the responsibility of child care while she goes out and does whatever young adults do. That is where the conflict comes and you get the grandmother threatening to call DCYS—and they often do—and refusing to care for the grandchild in order to force this parent to be more responsible.

It is not always that there is a long history of parental neglect, but it is a conflict between young adults and their parents around the issue of child care and those kinds of issues.

Mr. **Pease**. Thank you.

Ms. Adnopoz, at one point you mentioned as part of your program cash payments to biological parents. What was the purpose of those cash payments?

Ms. **Adnopoz**. Well, some of them were for security deposits for parents who were unable to either find replacement housing because they did not have the cash to pay the security deposit. These families are able to pay the rent, and may in fact have some rent subsidy, but they don't have enough cash to pay the security deposit.

In a number of cases we were able to use this fund to pay security deposits and actually prevent the placement of children you see, the alternative in the State is that if the family cannot find the rent, the Department of Human Resources offers to place the child in foster care. That is a course of action that I think all of us in the field really abhor—the fact we place children because there isn't money to pay the rent makes no sense. We have paid for a refrigerator for someone who absolutely did not have refrigeration, couldn't afford it, and had an infant child who needed a special formula, because of a physical problem.

The expectation is that a stitch in time—and there are no constraints in terms of how this money is spent—may prevent the need for more costly interventions later. We are experimenting with being allowed to make small, perhaps revolving cash funds available to regional DCYS offices to be used for some of these and other purposes and perhaps to be repaid.

We are very conscious of the fact that we deplete any fund over time and therefore want to consider how can we turn it into some kind of rotating fund. We have been watching these cases and we will do some follow-up before the project is over to get some sense of whether or not that simple payment makes a difference in terms of stabilizing a potential crisis situation.

Mr. **Pease**. Finally, at one point, you also used the term permanent foster care. In a sense that seems like a misnomer to me.

Ms. **Adnopoz**. Permanent foster care exists in several states in the union as a legal status. What it would mean is that a child would be placed in a home that makes a commitment to keep that child for as long as that child needs—for all its growing years and beyond, that it would be clear that a worker would not at any point come in and attempt to disrupt that placement. Children appropriate for permanent foster care are not available for adoption and it is assumed will never be freed by the biological parents. However, it is understood that he is going to stay in the foster home, and will never return to the birth parents.

Permanent foster care as a legal status would make the statement to that child that even though you are not legally adopted by this family, the family has made a commitment to you, we in the State have agreed to that commitment, and you will be nurtured in this home as if you were adopted. In terms of DCYS workers it not only is good practice, it reduces caseload. The expectation would be once the category was established, the worker would have minimal, if any involvement with the family. The worker would be free to deal with other cases that require more constant attention.

Mr. **Pease**. Does that concept involve legal guardianship?

Ms. **Adnopoz**. I don't believe it does. I think the Commissioner can talk more about that, but it does not need to involve legal guardianship.

Mr. **Pease**. Thank you very much. I appreciate the testimony of all of you. You are a very enlightening panel.

We will conclude with a panel of five persons, Raymond Farrington, Thomas Bohan, Christina Harms, Peter Walsh, and John Burchard.

Mr. Farrington, would you like to begin?

STATEMENT OF RAYMOND FARRINGTON, DIRECTOR, CHILD PROTECTIVE SERVICES, DEPARTMENT OF CHILDREN AND YOUTH SERVICES, STATE OF CONNECTICUT

Mr. **Farrington**. First of all, I would like to thank the committee for the opportunity to be here today to speak in reference to 96-272. It was in March 1979 that I had the pleasure of testifying before the Subcommittee on Public Assistance and Unemployment Compensation in support of what became Public Law 96-272. At that time, I advocated for two aspects of the proposals. That there be Federal financial participation for "special needs or hard to place" children in adoption; and the other that there be Federal financial participation for children placed without court involvement for a period of 180 days, 6 months, and I am pleased to say that Public Law 96-272 includes both of those provisions.

I am here today to give the committee an update on Connecticut's activities since the passage of Public Law 96-272. Needless to say, many of us in child welfare were supportive of the legislation, and we look forward to its implementation. That is not to suggest that we have not had difficulty with some aspects of it and have had some problem in implementing some of the provisions.

I would like to share with you what Connecticut has done with the additional expenditures as a result of the increased allocations. As you know, the authorized level of $266 million has never been reached, but the increase from $56 million to $141 million has enabled us to improve our services for children in the State of Connecticut.

In 1979, the Department of Children and Youth Services made a decision to provide services to youngsters in their own communities. We decided that the best service that could be rendered to dysfunctioning families was to have those services developed and provided in close proximity to where the children were. It was decided that no child would be removed from his or her own home for environmental reasons. As a result of these decisions, the Department implemented a strategy to reduce the need to remove children from their own homes.

In 1979, the department was supporting two child protection teams and two parent aide programs. As of May 1, 1984 we have in place 25 child protection services teams. We have three child protective services teams who specialize in child sexual abuse; we have 18 parent aide programs, two of which are voluntary programs. We have 37 parental self-help groups; we have two therapeutic day care programs, and three respite drop-in child care services.

These are services which are essential to maintaining children in their own homes or support reunification of child and family. They are not available in all areas of our State. As you know, Connecticut has 169 towns, and while we do have the ability to cross town lines and provide some of these services, these services are still unavailable in parts of our State.

I am here today to advocate for increased funding as was mentioned earlier. With additional funds, we believe that we will be able to provide services to more children and families thereby maintaining more children in their own homes.

Connecticut has—just as I am sure is true across the Nation—seen an increase in the reports of child abuse and neglect. We receive an average of 10,000 reports annually involving 14 to 15,000 children. Yet, we have been able to decrease the number of children that we are removing from their own home. As the Governor's representative mentioned, we have 609 fewer children in out of home care today than we had 3 years ago—3,909 in January 1981 to 3,222 in January 1984.

I would also like to advocate that the section of Public Law 96-272 dealing with subsidized adoption be modified. The section now requires that there be linkages with AFDC or SSI in order for States to claim FFP. In Connecticut, we have had a subsidized adoption program for 9 years. The requirements are very similar to those outlined in Public Law 96-272, with one significant exception, that our children need not be AFDC or SSI linked. The needs of the child should be the important factor not AFDC/SSI linkage.

During the last 6 months of 1983, we placed 53 special needs children who are entitled to a State adoption subsidy. Only 15 of these children, are eligible for FFP since the other 38 were not AFDC or SSI linked. I urge you to consider FFP for all hard-to-place adoption.

The public-private approach to identification and treatment of child abuse emerged out of a State recognition that the problems of dysfunctioning families, are the concerns of all citizens of the State of Connecticut, and it takes a multidisciplinary approach in order to help these families. Connecticut has designed such a system, we believe that it works. We recognize that we have had difficulty in the implementation of some aspects of Public Law 96-272, but we are optimistic and we believe that it holds a better future for our families and children, we ask you to consider our recommendations.

Thank you.

Mr. PEASE. Thank you, Mr. Farrington.

Mr. Bohan.

STATEMENT OF THOMAS BOHAN, CHIEF LEGAL COUNSEL, DEPARTMENT FOR CHILDREN AND THEIR FAMILIES, STATE OF RHODE ISLAND

Mr. BOHAN. Thank you.

My name is Thomas Bohan. I am chief legal counsel of the Department for Children and Their Families. I appreciate having the opportunity to come here today to discuss with you to some limited extent the manners and methods by which the State of Rhode Island has attempted to implement Public Law 96-272 and the mandates thereof.

I would like to talk for a minute or two about some of the services that have been put in place in the State of Rhode Island to prevent the need for the implementation of foster care in the first instance. The Rhode Island Department for Children and Their Families has for the past several years been attempting to bring its policies and practices in line with the philosophical underpinnings of Public Law 96-272, that all children be afforded permanency, and that foster care drift be eliminated.

Toward that end, the department has aggressively front-loaded services in an attempt to maintain children in their natural homes. In November 1981, the Department for Children and Their Families entered into contracts with private agencies throughout the State for the provision of comprehensive emergency services or CES programs. These are intensive programs, delivering in-home services to families in an effort to prevent removal of children from the homes of their parents. Intakes for the programs can come either directly through the department or come directly from other services within the communities.

The programs that we presently have in effect are time limited to the extent that they by and large have 60 days duration, although they do contain some provisions for minimal extensions. We presently have four CES programs operating throughout the State of Rhode Island. Each serves a distinct geographical area within the State. It is clear that we are referring many cases to these programs which as recently as 2 years ago would have resulted in the initiation of court action, and potential removal of children from their homes.

Additionally, the department has attempted to realign its own staff internally in order to provide more specialized services directed toward maintaining children in their homes. Toward those lines, the department has recently established four, what we refer to as specialized service units. These units are manned by social caseworkers and by clinicians, and their exclusive function is to work with children who are being maintained in their own homes. These four units, as I indicated, are manned by departmental staff. They each serve a distinct geographical area, and they do not have the time limitations that I indicated earlier are in effect with respect to the contracted programs—CES programs.

The State of Rhode Island, both the Department for Children and Their Families and Rhode Island family courts, I believe, has developed a sensitivity over the past several years to the reasonable effort requirements that are enumerated in Public Law 96-272. When the department files a petition in Rhode Island family court seeking custody of a child, the supporting documents that are filed therewith, must set forth what specific removal preventive services have been delivered by the department prior to that time.

Any subsequent probable cause hearings or adjudicatory hearings on those petitions, evidence of such efforts must be presented to the court and the court will subsequently make findings, specific findings of facts as appropriate either that the department did expend reasonable efforts to maintain that particular child in the home or that the department failed to do just that.

With respect to the efforts to reunite families after the State has intervened, I should point out that in Rhode Island, proof of reasonable efforts to strengthen and encourage a parental relationship is a condition precedent to any termination of parental rights except in one very limited circumstance. This has been the case for many years within the State.

In an attempt to more aggressively move toward its mandate to quickly reunite where possible, the department has recently contracted with two private agencies for development and delivery of intensive, highly structured reunification programs. Each of these programs is a 6 month program, designed to service families which have previously exhibited some difficulty in complying with the provisions of departmentally developed case plans.

Neither one of these programs has completed its initial pilot group. At this point we would expect that the initial phase of each of those programs will conclude in August of this year.

Earlier testimony made reference to some very specific concerns about the expeditious processing of cases once they do become involved in the court system. I should point out that in Rhode Island, the Department of Children and Their Families and the family court have over the last several years emphasized the expeditious handling of cases that are brought before the court.

Approximately 3 years ago, the family court implemented a continuous contested trial calendar to deal with nothing but abuse and negligence and termination of parental rights petitions. That calendar is manned by one judge for a period of 1 year at a time and he hears cases 5 days a week dealing solely with petitions alleging a child is neglected or abused or a petition seeking to terminate parental rights.

As opposed to that situation as we now have it, to what was in place just a few years ago when the same type of cases were heard by a judge one day a week—in a couple of occasions 2 days a week—we had at that time a situation that one earlier witness was referring to—where cases were filed with the courts and a determination or no adjudication is made in 6 to 8 months. In Rhode Island, that situation has become a thing of the past.

Additionally, within the State of Rhode Island, there is a statutorily created Office of Child Advocate. I personally have had the occasion to have a child advocate, for example, come before the family court objecting to my own request for a continuance, advocating the case had been pending long enough and advocating it should proceed as scheduled, and whether I personally liked it or not at that particular moment, I think it serves as a vehicle to increase and reinforce the expeditious handling of court cases.

With respect to the manner in which case review procedures have been implemented within the State of Rhode Island, I would like to say the Family Court of Rhode Island has long been aware of the need to review the status of children placed in the care of the child welfare agencies and several years ago initiated a separate child welfare review calendar. Initially that calendar consisted of one judge hearing child welfare reviews 1 day per week. It now consists of two judges who each devote 1 day per week exclusively to hearing child welfare review matters, and will occasionally involve the placement of such review hearings on even other days. So, emphasis on giving some expeditious treatment also to reviewing, updating the status of children.

Every child placed in the care of the department by order of the Rhode Island Family Court has his or her status reviewed by that court no less frequently than once per year. Additionally, the case plan for each such child is administratively reviewed by the department's recently established case plan review unit no less frequently than every 6 months. Additionally, that case plan review unit will review the case plan for a child just prior to the planned return home of the child.

I would like to point out Rhode Island general law mandates the department petition the family court for custody of a child who has been in the care of the department for a period of 1 year pursuant to a voluntary placement agreement. Such a petition will serve to either promptly return home or to trigger the judicial and administrative review processes that I just described a moment ago.

I should also point out Rhode Island general law currently mandates as a result of the legislative effort of the Rhode Island Child

Advocate that the department within 120 days of admitting a child into care on a voluntary basis petition the family court for a determination as to whether continuation in care is in the child's best interests and, if so, whether there is an appropriate case plan in effect to take care of that child.

These statutory mandates certainly help us to keep mindful of the child's status and help us to assure that appropriate case plans are in effect.

I think that Public Law 96-272 has prompted us in the State of Rhode Island to go a long way toward implementing practices and procedures designed to afford permanancy and stability to our children, and I would join with Mr. Farrington in his earlier comments that I believe that more adequate and fuller funding by virtue of existing legislation would go a long way toward helping us to even further increase those efforts.

Mr. PEASE. Thank you very much, Mr. Bohan.

Miss Harms.

STATEMENT OF CHRISTINA HARMS, GENERAL COUNSEL, DEPARTMENT OF SOCIAL SERVICES, COMMONWEALTH OF MASSACHUSETTS

Ms. HARMS. My name is Christina Harms. I am general counsel of the Massachusetts Department of Social Services. Given that I have a very short amount of time here this afternoon, I am not going to tiptoe around. I have a very specific message. I think I can be very brief.

I could make some overall comments in praise of Public Law 96-272, but I will pass on that, and instead give my particular message this afternoon, which is to criticize not the law, but the way it is being implemented by our Federal bureaucrats in Washington, with particular regard to a Massachusetts program which I will briefly describe to you and would like to urge as innovative; an entirely appropriate type of program being thwarted at the moment by an interpretation of Public Law 96-272 I think is unwarranted.

Let me first tell you about a particular problem which I think everyone in the room will recognize, then describe to you the program which we launched this year in Massachusetts to deal with it. The problem is this.

A child who is over a certain age, who is proposed to be adopted, who is never going home, for reasons that everyone would accept are clinically appropriate, and yet by virtue of a State statute which are typical in many States—it is not just Massachusetts, but I will describe the Massachusetts statute for you. Our adoption statute requires that any child over the age of 12 who is proposed to be adopted must consent to his or her adoption. I think that is an entirely laudatory statute, consistent with the statutes in most States, recognizing that children over a certain age have a right to a certain degree of self-determination.

That being the case, we must examine the group of children over 12, who for very legitimate, psychologically healthy, appropriate reasons, do not consent to their own adoption, such as a child who knows his or her mother is a patient at a mental institution, has been for quite some time, will probably always be, and yet the child feels that he or she knows his real parent or parents, does want to change his or her name, has a concept of his mother and father that will not be supplanted by adoptive parents, yet is in a stable, long-term placement, with a set of foster parents, and the relationship is entirely satisfactory. It is the right placement for this child for the rest of his or her minority. Nevertheless, the child cannot be adopted because the child will not consent to his or her own adoption.

I think when the concept of permanency planning first became fashionable, people assumed that the world had only two universes. One was adoption and one was going home, and those were the only two acceptable permanent plans for a child. Well, there is a middle ground. There are some children who cannot fall into either of those groups, the children I have just described. Yet, we do need to strive for the goals permanency planning has taught in addressing what we are going to do for those kids.

What we came up with in Massachusetts is this, and once again, this is not a unique program to Massachusetts. I don't know how many of the other New England States do have it, but I am aware of similar programs, and I will get to Maryland in a moment.

The program we started was a subsidized guardianship program. The Commonwealth will create a State-sponsored legal guardianship relationship between the child and the parents who have had the child in their physical possession for some lengthy period of time. We will continue to make payments to these people just as we had been making foster care payments, if it is only those payments by which those people can sustain the child in their home. We simply changed the terminology from foster care payments to guardianship payments. We envision them as similar to adoption subsidy payments.

Now, we launched this program this year by means of a new departmental regulation. We thereafter, very shortly thereafter, ran into the following problem. ACYF through Lucy Biggs, the current commissioner, has taken the following two positions with regard to this type of program and Public Law 96-272 funding. There are two which in within my view go from bad to worse. The first position is that these payments we make to these State-sponsored guardians are not eligible for IV-E reimbursement under Public Law 96-272. Now, to me, that is totally contrary to the impetus which led to the passing of Public Law 96-272. If the impetus was to encourage States to think permanency planning, that is exactly what Massachusetts did, and IV-E/IV-B money is available for foster care payments and is available for adoption subsidy payments, and analytically our guardianship falls between the two. It is not quite as good as adoption, it is much better than foster care. There isn't any rationale for allowing States to be reimbursed for foster care payments and adoption payments and yet excluding guardianship payments.

I think the particularly unfortunate result of that interpretation, which again, I would stress, is in no way required by a literal reading of the language of the statute—it is merely an administrative gloss on the statute—the unfortunate result of that is to discourage States from using this kind of program. In fact, Massachusetts may be discouraged in continuing our use of this program. What it may force us to do is resort to what we are being told to avoid, and rightly so—long-term foster care.

The ACYF has also taken the position even if IV-E money were to be made available to States to reimburse us for these guardianship payments, they would impose the following requirements according to the language of Public Law 96-272: They would force these children and their families to go through the 6-month administrative reviews that Public Law 96-272 requires for children in foster care.

Once again, totally antithetical to the concepts and underlying tenets of Public Law 96-272. This guardianship program which I have described, and which, again, is operating in other States, is intended to be much more akin to adoption than to foster care. The goal, and I think this was expressed earlier by someone testifying, is that these are cases where the children have been placed with these families for a lengthy period of time, the relationship is a good one, there are very few ongoing services in connection with these cases, generally no ongoing services, so the notion of forcing these families and children through 6 months review for the remainder of the child's life until he or she turns 18 creates exactly the wrong impression for the child. If the goal is to make these children feel they have achieved permanency, why bring them in for 6-month case reviews? How more effectively could we remind that child he or she really is a foster child, really a ward of the State, really has continuing State involvement in the decisions that affect his or her life? That violates the tenets of permanency planning, and, once again, effectively discourages States from using this kind of tool to arrive at an effective permanent plan.

I have brought with me this morning copies of the testimony I have just given, and attached to those copies is a copy of the letter from ACYF to Maryland essentially holding both of the positions that I just decribed to you with regard to a similar program in Maryland. There are similar appeals going on in Illinois and in other States, but I would only ask for whatever efforts you might make to either dissuade ACYF from this position or, in the extreme, I suppose, to amend, literally amend Public Law 96-272 so the express language precludes this particular gloss on the statute. Thank you.

STATEMENT OF PETER WALSH, DIRECTOR, BUREAU OF SOCIAL SERVICES, DEPARTMENT OF HUMAN SERVICES, STATE OF MAINE

Mr. Walsh. I am very pleased to be able to come down here from the most northern State in the Nation, Maine, to testify before Congressman Pease.

Maine also has supported wholeheartedly the Child Welfare and Adoption Assistance Act of 1980. Maine had started its permanency planning efforts in 1979. However, we also have had extreme difficulty in terms of implementing the law. We certified under the section 427 the first 2 years 1981 and 1982, and subsequently withdrew those certifications under protest at the way the administration for children, youth, and families was administering the law.

Incidentally, the first time we certified was at the recommendation of the associate director of the administration of children, youth and families.

Two weeks ago in Washington I heard for the third or fourth year in a row that the rules governing this program would be out shortly. When I asked when those rules would be effective, what date they would be effective, would they be retroactive to 1981 or would they start effective when the rules are published, representatives of ACYF could not answer that question; without published rules, it has been difficult for us to implement the law.

We are very pleased, however, because of our permanency efforts and also our prevention efforts. Our foster care caseload has decreased from 2,500 children in 1979 to about 1,850 in 1984, so we have had a substantial decrease, as I think has been the case throughout the country.

Incidentally, we are still serving the same number of children in foster care, which is an interesting point. We still are serving in the past 2 or 3 years, about 3,000 children a year, so that what is happening is that children are moving through the system faster. In fact, I call foster care an inpatient system, with the idea that a child comes into foster care, receives treatment, then moves back out again.

However, all is not rosy. The number of children in foster care in spite of all our efforts has started to increase since last August. Since that time we began to see an increase in foster care almost exactly parallel to the tremendous increase which we are also seeing—as are other States—in our child abuse and neglect referrals.

In 1982, we had approximately 11,000 children referred to us for an investigation of child abuse and negligence.

In 1983, that number increased by about 12 percent to 13,000—I was interested to see that Maine is a State of a million people. I don't know what Connecticut is. I think you have 4 million, and yet, if the figures are correct, both States had 13,000 children reported.

I don't know if we are doing right or wrong or what is exactly going on. We have been absolutely inundated. It has become the most newsworthy item I think of anything that is happening right now in the State.

Our sexual abuse cases have also increased tremendously. In 1982 we had 348 sexual abuse cases referred to us that we investigated and followed up on, and in 1983 we had 762, for an increase of 119 percent.

I am not going to say this is a new phenomena. People are now reporting it more, but I think also there is more sexual abuse.

We also refer all of those cases of sexual abuse to the district attorney for followup in the court system. The court and district court are feeling very much inundated with these types of cases as well.

I was trying to think what are some things that I would like to give to you going back to Washington in terms of changes that I would like to recommend be made in the law, and I come up with three basic changes. The first is that I would like to see the funding mechanism in the law changed from one that gives States a reward if it implements section 427, to one that gives States an incentive. The law states that after States met the requirements of section 427, they can then take advantage of the increased funding. The funding should be made available to States to help implement the provisions.

So when they say let's give full funding there have been many States in the country that haven't yet been able to take advantage of funds above $141 million.

To repeat, I would like to see one basic change and that is that the reward system be changed to an incentive. We already write a child welfare plan as part of the law, and we would say what action we have to take in our State to come into compliance with the law, and then the money would be tied to help us implement those changes as part of the child welfare plan.

I think this one simple change could go a long way toward reducing many outstanding problems. Maine did pass the certification in 1983 at about 86 percent pass level. Only 23 States have actually come into compliance with this law, even though many more have certified. Twenty of those States, as I understand it, came into compliance in 1981 and 1982. All States will have to go through another compliance tests in 1984, still without any rules.

So, change the reward to an incentive in section 427. Give the money to the States so they can make these needed changes.

The second change that I would like to see is that I would like to see Federal foster care support be made available for all foster children. Under the 4-E program at the present time only children who are eligible for AFDC are eligible.

I think that foster payments should be equally available for all foster children who come into our custody. Approximately 50 percent of the children in Maine's foster care program are eligible for the 4-E program, which means that the State has to fund, which is our responsibility, the rest of the money, but truly I think that we should look at this as an equal protection program.

All children should be eligible. We have in place a program, when we are in court with the parents if they can afford to pay something toward the cost of the care of the child, we actually ask the court to make an assessment so the income can go against that provision. This provision could be part of the Federal mandate.

Both of those actions would help toward my third point, which is increased funding. I would like to see full funding of the 4-B program. I think that this law is the key national children's law. Even though title XX pays for most of our children's services in the State of Maine along with State money, there is no guarantee that new title XX block grant funds would be used for children's services.

I think the Federal Government and Congress should look at this law as the place to build a national children's services program.

The law addresses prevention services, and I think increased funding can help us move in that direction.

If there is the incentive program rather than reward, if it is changed, and if all the children were deemed eligible under 4-E, those two things would make significant amounts of money available to the States which would enable it to increase prevention services.

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In closing, Congressman Pease, you mentioned the Federal deficit. We are very much aware of the question of priorities. I thought the lady who spoke before gave an excellent answer to your question. In Maine, we feel it is a question of priorities. Commissioner Michael Petit was recently quoted in the Maine Sunday Telegram. He said:

> I absolutely will challenge anyone who tells me we don't have the money needed when there are children being physically abused and neglected, as long as we support the pet food industry, the National Basketball Association, as long as physicians are being paid at a rate of six times greater than the average wage earner, this country has resources to pay for the kind of problems that I am talking about.

He usually mentions the amount spent for defense system when he talks about priorities. I read yesterday there is over $700 billion a year now being spent on arms worldwide, and so I think that we do have to change priorities and in changing we are going to save money down the road.

Thank you very much.

Mrs. **KENNELLY** [presiding]. Thank you.

Mr. Burchard.

STATEMENT OF JOHN D. BURCHARD, PH.D, COMMISSIONER, DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES, STATE OF VERMONT

Mr. **BURCHARD**. Thank you.

I am John Burchard, commissioner of the Department of Social and Rehabilitation Services in the State of Vermont. I am deeply appreciative of the opportunity to speak to members of the House Ways and Means Subcommittee on Public Assistance concerning Public Law 96-272, the Adoptions Assistance and Child Welfare Act of 1980. I understand that the purpose of this hearing is to receive testimony on changes which might be made to improve the administration of that act and to increase the likelihood that its very progressive and humane goals will be achieved.

The purpose of Public Law 96-272 is to provide children who are left in limbo in foster care with a more permanent, stable family primarily through the rehabilitation or reunification of their biological family or through adoption.

I have several specific recommendations which I have appended to this written testimony. I don't believe I can improve that much on what my colleagues have already said with respect to specific changes.

Instead of presenting that testimony, at this time I would prefer to focus on some issues which I believe pose a far greater threat to our ability to obtain the goals and objectives of 96-272. The issues I am referring to involve national policies and Federal legislation that appear to be short-sighted and damaging to the promotion of strong families and healthy children.

We have made progress in achieving more stable and permanent families for troubled and disadvantaged children. However, we are experiencing an even more significant increase in the number of children and families which need our services. In some ways, the situation is analogous to trying to develop a better seat belt while at the same time increasing the speed limit to 150 miles an hour.

Another analogy would be—or maybe another description of the situation is that either we are getting better at moving children out of the back door into more stable permanent families. But we are being flooded and inundated with kids coming into the front door, abused and neglected kids.

In Vermont, more than 65 percent of the children placed in foster care are abused and/or neglected children. In the first 8 months of 1983, there was an 82 percent increase in confirmed cases of abuse and neglect compared to the same period of time in 1982. Similar increases in the population of abused and neglected children are being experienced in many States throughout the Nation.

In addition to our efforts to fine-tune Public Law 96-272, I urge Congress to take action in an effort to reduce the alarming flow of children and families into our child welfare system. Unfortunately, I believe that some of our national policy and Federal legislative achievements over the past few years have only exacerbated this problem.

I believe we, the child welfare administrators in this country, know a lot about the source of this alarming increase in child abuse and neglect, and that we know a lot about what must be done to reduce it.

With respect to the source of the increase in abused and neglected children, much has been written as to whether it represents an increase in our ability to discover existing child abuse and neglect or an actual increase in the proportion of our children that are being abused and neglected. From a service standpoint, the issue is academic; the child and family need services whether the abuse or neglect is new or old.

From a policy standpoint, however, the issue is important because a viable solution to the problem may require more than the delivery of more and better rehabilitation services. If, in fact, more children are being abused and neglected, we need to address the conditions that are responsible for that increase.

I believe there has been a significant increase in the actual frequency of child abuse and neglect for the following reasons: First, there has been a significant increase in the number of children who live in poverty. Although child abuse and neglect occur at all socioeconomic levels, most of the abused and neglected children in the child welfare system live in poverty.

In Vermont, approximately 75 percent of the abused and neglected children live in families receiving some form of public assistance. A Vermont child living in a family receiving Aid to Needy Families with Children, ANFC, is 7½ times more likely to be an abused or neglected child than a child living in a family not receiving ANFC.

Although most parents who live in poverty do not abuse or neglect their children, the stress created by an inadequate income creates a greater risk for that to happen. Therefore, anyone concerned about the prevalence of child abuse and neglect, or number of children in foster care, must be concerned about the prevalence of poverty.

On February 23, 1984, the U.S. Census Bureau announced there had been a rapid increase in poverty from 1979 to 1982, even when the value of food stamps, public housing, medicare and medicaid benefits were counted as income. The increase was 47 percent for all people living in poverty and 52 percent for children under the age of 6. I do not believe there can be a significant increase in the number of children and families living in poverty without there also being some increase in child abuse and neglect.

The second condition that I believe contributes to an actual increase in child abuse and neglect is the substantial increase in single-parent families. Although child abuse and neglect occurs in every type of family constellation, a disproportional number of abused and neglected children live in single-parent households.

In Vermont, approximately 41 percent of all abused/neglected children live in single-parent families, while only 15 percent of all Vermont children live with single parents. In fact, a Vermont child living with a single parent is nearly four times as likely to be an abused or neglected child as a child living in a two-parent family. Although most single parents do not abuse or neglect their children, few professionals would disagree that it is likely to be much more stressful to raise children alone than with another parent. This is particularly true for single parents who are raising children while living in poverty.

According to the same census study cited earlier, there has been a 49 percent increase in the number of families headed by a woman living in poverty. In Vermont, over 90 percent of the single parents of abused and neglected children are women; and approximately 95 percent of those women live below middle-class standards.

Therefore, if we are concerned about an increase in child abuse and neglect, we must also be concerned about the increase in single-parent families, particularly single-parent families living in poverty. I do not believe there can be a significant increase in poor, single-parent families without there also being some increase in child abuse and neglect.

The final reason why I believe we are witnessing an actual increase in the number of abused and neglected children involves an extensive reduction in income benefits and services to the children and families living in the high risk conditions I have just mentioned—poverty, and single-parent households.

The evidence for the reduction in benefits and services is well established. In early April of this year, a study was released by the Congressional Budget Office which analyzed the impact of the budget and tax changes adopted since January 1981. The results indicate that households with annual incomes of less than $10,000 lost, on the average, $390 a year in cash and noncash income benefits. At the same time, all families with higher incomes experienced a gain in income benefits. As you are no doubt aware, a family with an income of $80,000 or more experienced a net gain of $8,270 a year.

This gets to the issue of priorities and whether or not we have enough money if we just spent it wisely. Reductions in income benefits have been accompanied by a substantial reductions in services. According to the Select Committee on Children and Their Families, $44 billion has been removed from children's programs since 1981. Almost all of these services are primarily for low income families or families with special needs children.

In my opinion, the cuts that were the most devastating for high risk children were those resulting in reductions in child care and child maternal health care.

If income benefits are to be reduced, it would appear that benefits to facilitate employment such as subsidized child care would become more important. If so, this has not been reflected in either public policy or legislation. Title XX, the largest program providing federal support directly for child care, was cut by 21 percent. Child nutrition programs that provide meals to children in child care facilities were cut by 30 percent. The most frequent beneficiary of these programs are low income single parents. In Vermont, over the past 3 years there has been more than a 35 percent reduction in the utilization of child care subsidized by title XX and title IV-A.

Similar reductions in health programs have left an increasing number of poor women and children without vitally needed health care. The maternal child health program was cut by 25 percent, and the preventive health and mental health block grants were cut by 20 percent and 26 percent respectively. It is now estimated that almost 9 million American children have no regular source of health care, and that 18 million have never seen a dentist.

But what does this all have to do with the increase in child abuse and neglect and the increased number of children and families entering our child welfare systems? I believe there are increasing indications that we are deliberately exacerbating the very problems we are trying to eliminate. I do not believe we can remove substantial benefits and services from low income, high risk families and children without there being some increase in child abuse and neglect.

A study released last week by Penny Feldman of the Harvard School of Public Health documents a 50-percent increase in infant mortality among poor, innercity Boston families in 1982. It may or may not be significant that this study was immediately discredited by Secretary Heckler. Nevertheless, the 50 percent increase in deaths corresponded with a decrease in Federal revenues through the Maternal Child Health Program, a reduction in services at the five health centers in question and a reduction in pediatric and obstetric visits by poor women and their children.

These data are correlational and do not necessarily indicate a causal relationship between reduced services and infant mortality. However, when combined with increased mortality rates in 20 States between 1981 and 1982, it should compel us to be certain that such a relationship does not exist.

The same is true for the relationship between our recent changes in public policy and legislation and the increase in child abuse and neglect. There are considerable correlational data which suggest that some of our national policies and legislation have had an adverse effect on many families and children. Do we need to wait for further evidence when it is primarily poor children and their families that are the guinea pigs? I hope not.

There is specific action that I believe can and should be taken by Congress to alleviate this problem. The most beneficial action would be the passage of the Children's Survival bill, which is presently in committee in both the House and the Senate. Basically, this bill proposes to restore many of the most critical cuts to services affecting the poorest children and their families.

With respect to low-income single women, the recent child support legislation and the proposed Pension Equity Act for women could result in fewer poverty-stricken women in the future. Any other legislation that will enhance income benefits and services to poor women and children are also recommended.

With respect to Public Law 96–272, the single most important action would be to fund title IV-B at the level at which it was originally authorized by Congress. Although this would constitute a small proportion of the dwindling child welfare budget, the added resource would facilitate our efforts to obtain the goals of 96-272. It should be noted, however, that if this is all that is accomplished, it still may amount to designing a better seat belt while failing to focus on the more critical sources of the problem.

I am very aware that you are required to deal with complex issues and make difficult decisions. Those decisions that promote a viable future must support strong families and healthy children.

I appreciate the opportunity to share my concerns with you. I just would like to add a couple of other brief comments.

One: I am submitting with this, as I mentioned earlier, the specific recommendations pertaining to Public Law 96–272. I am also submitting a document that relates to our appeal of the denial or failure with respect to the 427 review. Vermont failed in fiscal year 1981. We are in the process of appealing that decision.

One of the arguments is that Vermont has been subject to unequal unfair review when compared with what happened with other States. We feel that, particularly in region I, the interpretation of the law was extremely rigid and therefore led to this inequitable treatment across States, and we have documented that in our brief. We think we can show that 23 States which had similar situations, policies, procedures, as Vermont, but in fact passed, underscores our concern with respect to inequitable treatment.

I am also submitting a document, testimony from the Vermont Foster Parents Association, which basically supports the testimony you have already heard with respect to foster care.

[The document follows:]

Appendix A

Specific Recommendations Relevant to PL 96-272

Prepared for: U.S. Congress, House of Representatives, Ways and
Means Committee, Sub-Committee on Public Assistance
Hartford, Connecticut
June 1, 1984

John D. Burchard, Ph.D.
Commissioner
Department of Social and Rehabilitation Services
State of Vermont

This written testimony will address the following areas:

A. State Child Welfare Programs have, with limited guidance from H.H.S., successfully implemented policies and practices required by PL 96-272.

B. In spite of a lack of Federal regulations or guidance for most of the period since PL 96-272 has been implemented, the limited outcome data available indicates that PL 96-272 has been very successful in reducing the number of children in foster care.

C. It is my belief that PL 96-272 would be further improved by the following adjustments to the Act or its regulatory interpretation:

(1) Children receiving Adoption Assistance under the Act should recieve Medicaid from their actual State of residence regardless of the State responsible for the Adoption Assistance Payment.

(2) Federal Financial Participation for children otherwise eligible for Title IV-E assistance should not be tied to an individual judicial determination for each child that "reasonable efforts" were made to prevent or eliminate the need for removal of the child from his home and to make it possible for the child to return to his own home.

(3) Voluntary care provisions currently extended through FY '84 should be made a permanent part of the Title IV-E program.

(4) The Title IV-E foster care requirement for redetermination of eligibility every six months should be repealed.

(5) Title IV-B should be funded at $266 million as authorized by the Act.

I will keep my comments brief but would like to expand somewhat on each of the previously mentioned thoughts.

How has the Act been implemented?

PL 96-272, passed June 17, 1980, became effective on October 1, 1980 for Federal Fiscal Year 1981. The Title IV-E provisions which superceded the former Title IV-A foster care program could be made applicable any time after 10/1/80 and prior to 9/30/82. After 10/1/82 the option to operate a foster care program under Title IV-A expired and States wishing to recieve Federal Foster Care Assistance were required to participate in the new Title IV-E program.

The Title IV-B provisions of the Act became effective on October 1, 1980 for all States. An innovative but subsequently controversial part of Title IV-B was contained in Section 427.

Under Section 427 States were offered incentive funding if their child welfare program had certain policies and procedures implemented and operating to the satisfaction of the Secretary. Although the amount of incentive funding available nationwide ($27 million) was relatively small, States faced with declining resources in other social service funding such as Title XX, were anxious to receive whatever assistance they could to improve their child welfare service program.

Proposed regulations published in December of 1980 were subsequently withdrawn and States were left to rely on the language of the Act itself to implement the new program requirements. A Program Instruction issued by ACYF on 7/1/81 instructed States who wished to request funds under Section 427 for FY '81 to submit a State Certification of Eligibility for the additional funds based on the requirements of the Act.

Although no specific criteria, guidelines or standards have yet been issued by H.H.S. or any component unit governing the decision making process under Section 427, ACYF decided to conduct reviews of each State's certification beginning in mid-FY '82.

Because of the lack of any specific criteria, Federal Regional Office staff were given a great deal of latitude in interpreting when a State's program was "operating to the satisfaction of the Secretary". Fortunately, and I believe appropriately, most Federal Regional Office reviews did in fact take a State specific, corrective action approach to the verification reviews. The results were that of the 28 States who certified eligibility for FY '81 and did not subsequently withdraw that certification (as did five States plus Puerto Rico) all but three States have been confirmed eligible. In addition, one other of those three States, my own State of Vermont, is currently arguing its case before the H.H.S. Grant Appeals Board. I am confident that after the expenditure of literally hundreds of hours of program and legal staff time at both the State and Federal level of government we also will, in the near future, join the ranks of those States whose funding for FY '81 is assured. It is indeed unfortunate that the approach adopted by the majority of Federal Regional Office staff under the authority given them to find States in substantial or conditional compliance without need for Central Office approval from ACYF or Children's Bureau was not mandated by H.H.S. on all Regions and on the Central Office of ACYF and the Children's Bureau. I believe an approach based on a State's willingness to enter into corrective action if necessary tends to establish a partnership between State and Federal staff and offers the best opportunity to direct and dedicate our energy toward improving the child welfare system for our nation's children at risk.

How effective has the Act been?

The proposed rules published by H.H.S. on 12/31/80 estimated that if this law was as effective as advocates and supporters hoped it would be, the number of children in foster care by FY '84 should be reduced to 360,000 and should stabilize at that level. It is a measure of the impact of PL 96-272, an impact that I believe began to be felt in child welfare systems across the country even prior to final passage, that the most recent estimate of the number of children in foster care completed by Maximus, Inc. in early FY '83 indicates that children in foster care now number less than 250,000. This figure, which tended to confirm slightly earlier results from the American Public Welfare Association's Voluntary Cooperative Information System (VCIS), exceeds the most optimistic goal of HHS by approximately 30% and leaves no doubt over the willingness of State child welfare programs to adopt the prevention, reunification and permanency goals contained in PL 96-272 and translate those goals into reality for our children.

What Changes Should Be Made?

(1) Children receiving adoption assistance under the act should receive Medicaid from their actual state of residence regardless of the state responsible for the adoption assistance payment. The adoption assistance program contained in PL 96-272 provides federal financial participation for the first time in the cost of adoption subsidies for special needs children. As a further incentive to adoption, the law specifies that any child with respect to whom adoption assistance payments are made is "deemed" to be a recipient of aid to families with dependent children under Title IV-A and thus automatically eligible for Medicaid coverage. When a state grants a Title IV-E adoption subsidy that subsidy must continue to be a responsibility of the granting state as long as the child remains eligible, regardless of where the child actually lives. H.H.S. has, through its Medicaid regulations, determined that when a child moves from one state to another, residency for Medicaid purposes remains with the state that is responsible for the adoption assistance payment. This means that a Vermont child under this program whose family moves to Arizona continues to recieve both the adoption subsidy payment from Vermont and a Vermont Medicaid card. In reality, a Vermont Medicaid card is of little value to the child in Arizona. H.H.S. suggests that states deal with this by adopting enabling legislation and entering into bilateral interstate compacts. While this may be one approach, a far simpler and more equitable solution to a problem inherent in our mobile society is to direct, legislatively if necessary, that children for whom Title IV-E adoption subsidy is made are deemed to be recipients of AFDC in their actual state of residence and therefore automatically eligible for Medicaid coverage from that state regardless of the state responsible for paying the adoption subsidy. This would insure that the benefits intended by PL 96-272 would actually be available to all "special needs" adoptive children and would eliminate the administrative nightmare currently suggested by H.H.S. as the way to accomplish this end.

(2) Federal financial participation for children otherwise eligible for Title IV-E assistance should not be tied to an individual judicial determination for each child that "reasonable efforts" were made to prevent or eliminate the need for removal of the child from his home and to make it possible for the child to return to his own home. States were notified by an ACYF Policy Announcement dated January 13, 1984 that the requirement I refer to in this recommendation had actually been in effect since October 1, 1983 and that compliance for each child entering care after that date was necessary for that child to be eligible for Title IV-E funds. Although I have absolutely no objection to the emphasis on preplacement preventive services nor to the much more active role of the courts set forth in PL 96-272, I do object to the manner in which H.H.S.'s ACYF component has handled this issue. When the Department published final program regulations effective June 22, 1983, almost exactly three years after the act was passed by Congress, the issue of what was to constitute compliance with the "reasonable efforts"

requirement effective 10/1/83 was addressed in the comment section under "Reasonable Efforts" and in the regulations at 45CFR 1356.21(b). Compliance was considered to be a case plan issue and after October 1, 1983 each child's case plan must "include a description of the services offered and the services provided to prevent removal of the child from the home and to reunify the family." While the Commissioner of ACYF acknowledged that her Policy announcement of 1/13/84 containing new requirements might cause states to have to make legislative changes in their statutes or changes in court rules, no "grace period" was included to allow states time to come into compliance. In fact, the spectre of retroactive disallowance of cases not in compliance with the newly stated requirements caused a mad scramble within states to begin to get the required determinations from the individual courts in their legal system. H.H.S. in mandating individual court determination of "reasonable efforts" has provided no criteria on which the courts may base their decision. This, it seems to me, institutionalizes unequal treatment of individual children and uncertain access to federal assistance on the part of the state agencies. While I am not advocating any reduction in the role of the courts in reviewing all aspects of cases brought before them, I do feel that the courts should not be asked to pass judgement on the reasonableness of a state child welfare agency's efforts solely for the purpose of gaining or denying access to federal funds.

(3) Voluntary care provisions currently extended through FY '84 should be made a permanent part of the Title IV-E Program. Vermont is one of the ten states currently participating in the optional voluntary care program under Title IV-E. Our experience has been that when a child requires substitue care for a specific time-limited period such as during an illness of a single parent, there is no need to add further trauma to the situation by requiring a committment process to occur before a judge. We feel that the requirement for a specific time-limited agreement that may not exceed six months in duration without judicial concurrence that an extension beyond six months will be in the best interest of the child, and the right of the parent(s) to terminate the voluntary care agreement upon notice to the Department, sufficiently protects the procedural rights of the child. The Department and parent(s) are then acting cooperatively rather than adversarily to further the child's best interests.

Prior to PL 96-272 many states including Vermont had provisions for taking children into care on a voluntary basis that did not have the procedural safeguards required to participate in this program under the act. Vermont made the necessary statutory and procedural changes to comply with the requirements for federal financial participation in voluntary care. The availability of such funding on a permanent basis will, I believe, have a positive effect on many other states who will also be encouraged to modify their voluntary care programs so that the rights of children and parents are more protected.

(4) The Title IV-E foster care requirement for re-determination of eligibility every six months should be repealed. PL 96-272 consolidated child welfare program requirements and mandates administration of Title IV-B and Title IV-E of child welfare services and foster care under one agency at the state level. I believe Congress intended a clear separation of child welfare and foster care from the Title IV-A program. This intention was mirrored within H.H.S. by a transfer of foster care responsibility from the Office of Family Assistance (OFA) to the Administration for Children Youth and Families (ACYF). Unfortunately, the law did maintain a linkage with the Title IV-A Public Assistance program by limiting eligibility for foster care payments under Title IV-E to those children who, if they were in their own home, would meet the requirements for assistance under Title IV-A. Child welfare programs have historically focused on meeting the needs of children without regard to their economic circumstances and the emphasis on eligibility determination for the purpose of obtaining federal matching for that portion of the child welfare caseload that meets the Title IV-A standards is seen at best as a necessary step to obtain needed resources. Ideally, federal support with foster care should be available to all children who need it. The increased cost could be offset by increased efforts to obtain participation in the cost of foster care by those parents who can afford it. Short of that, there seems to be little benefit in the H.H.S. regulatory requirement that the linkage between the Title IV-A program and receipt of Title IV-E benefits be constantly monitored and formally re-determined every six months. Vermont's experience, and I understand the experience of other states, is that rarely does the situation of children change so that they become ineligible after an initial finding of Title IV-E eligibility. Therefore the requirement for constant and continuing re-determinations of eligibility draws resources and valuable staff time away from the primary focus of the act which is to facilitate the exit of the child from foster care at the earliest possible time. I am sure your committee would agree that it is far better policy economically and socially to bend our efforts toward the early resolution of the problems that made foster care a necessary service than it is to divert efforts into justifying eligibility for continued federal participation in the on-going cost of foster care.

(5) Title IV-B should be funded at $266 million as authorized by the act. In FY '81 Congress funded Title IV-B at the level of $163.55 million. The appropriation level for FY '84 is $165 million or an increase over five years of less than 1%. The other traditional funding source for child welfare services, Title XX, is currently funded at only 90% of the FY '81 level. It is a sad commentary on this nation's priorities that at a time when the military has experienced double digit after inflation growth in the resources dedicated to destruction, the allocation of resources targeted toward improving the lives of our most precious resource, our children, have actually declined.

I strongly support the goals and objectives of PL 96-272 and would particularly like to dedicate more resources toward prevention activities. We have the technology and expertise to identify "high risk" populations and I firmly believe that early intervention through services such as parent support and training will avoid the need for more expensive agency intervention that follows family breakdown.

My sense is that this emphasis on prevention so prominent in the philosophy and policy of PL 96-272 is generally subscribed to by my colleagues around the country in the child welfare field. In order to translate these goals into reality for our citizens we need a re-affirmation of federal leadership and committment through resource allocation as well as rhetoric. I ask that you join us in helping to create a truly effective federal, state and local partnership on behalf of children and families.

Thank you for your patience in listening to my thoughts and for your interest in improving our nation's child welfare and foster care system.

ARP/rw

State of Vermont

DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES
AGENCY OF HUMAN SERVICES

Main Office:
Osgood Building
Waterbury Office Complex
Waterbury, Vermont 05676

◆ Commissioner's Office
Alcohol and Drug Abuse Division
Division for the Blind
and Visually Handicapped
Social Services Division
Vocational Rehabilitation Division
Disability Determination Unit

May 10, 1984

Ms. Caroline Reines-Graubard, Esq.
Departmental Grant Appeals Board
Switzer Building, Room 2004
330 C Street, S.W.
Washington, D.C. 20201

Re: Vermont Department of Social and Rehabilitation Services, Docket No. 83-196

Dear Caroline:

Attached please find an original and two copies of Vermont's quantification of the unequal enforcement of the Adoption Assistance and Child Welfare Act of 1980.

The quantification is submitted pursuant to the GAB ruling contained in your May 1, 1984 letter to the parties. On the basis of this information and information previously submitted by Vermont, Vermont reasserts its argument that ACYF's unequal enforcement of Public Law 96-272 violates the constitutional right of Vermont children to equal protection under the law. Vermont further asserts that ACYF's unequal enforcement violates the constitutional right of Vermont children to enjoy the same privileges and immunities as children of other states.

The quantification's conclusion that at least 23 states benefited from an ACYF interpretation of PL 96-272 that was less rigid than the ACYF interpretation applied in Vermont's case should not be construed as an indication that Vermont believes that the favorably treated states should have been treated more harshly. To the contrary, Vermont believes that the corrective action approach taken in the compliance reviews of the favorably treated states is the only fair enforcement process for PL 96-272 in view of the total absence of prior ACYF guidance regarding the ACYF interpretation of the PL 96-272 provisions. Rather than seeking more rigid treatment of the favorably treated states, Vermont instead seeks application of the approach used in the favorably treated states to Vermont.

Mailing Address:
DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES, Waterbury Complex,
103 South Main Street, Waterbury, Vermont 05676
Telephone—802-241-2100

As Exhibit A indicates, ACYF failed to provide the federal eligibility reports for years subsequent to FY '81. Vermont's Motion to Produce requested all federal eligibility reports. While Vermont believes the FY '81 reports (and the FY '82 reports which Vermont acquired on its own) are sufficient to establish Vermont's argument, in the interest of comprehensiveness, Vermont requests the GAB to order ACYF to make all federal eligibility reports available for incorporation into the record. Since the Arkansas appeal pertains to FY '82, I expect that Breck Hopkins would request production of these reports also.

Unless the Board believes otherwise, Vermont does not believe it is necessary to offer a Vermont quantification of the material that ACYF has not yet produced. I believe that mere incorporation of the reports from subsequent years into the record will be sufficient to protect Vermont's interest in developing a complete record.

Thank you for your consideration.

Sincerely,

STEVEN B. McLEOD
Assistant Attorney General

SBMcL/rw

cc/Joyce McCourt, Esq.
Breck Hopkins, Esq.
Allen Ploof
Comm. John Burchard

UNITED STATES DEPARTMENT
OF HEALTH AND HUMAN SERVICES

DEPARTMENTAL GRANT APPEALS BOARD

VERMONT DEPARTHMENT OF SOCIAL AND
REHABILITATION SERVICES
Appellant

Dkt. No. 83-196

vs.

DEPARTMENT OF HEALTH AND HUMAN SERVICES
ADMINISTRATION FOR CHILDREN, YOUTH AND FAMILIES

Respondent

SUPPLEMENTAL APPEAL FILE

May 10, 1984

Exhibit A

DEPARTMENT OF HEALTH AND HUMAN SERVICES

GRANT APPEALS BOARD

In re: Vermont Department
of Social and
Rehabilitation Services
Dkt. No. 83-196

AFFIDAVIT OF ALLEN PLOOF

Allen Ploof, Being Duly Sworn, Deposes and Says:

1. I have been employed as the Policy and Procedures Consultant for the Vermont Department of Social and Rehabilitation Services (hereinafter SRS) since mid-1981.

2. At the request of SRS Counsel Steven McLeod, I have analyzed all available ACYF Sec. 427 Eligibility Reports and the "Comparative Study of State Case Review Systems Phase II: Dispositional Hearings, Vols. 1, 2" for the purpose of determining whether ACYF's compliance action against Vermont was based on a more rigid interpretation of the Adoption Assistance and Child Welfare Act (Public Law 96-272) than was applied in compliance reviews of other states.

3. Prior to conducting this comparative analysis, I became intimately familiar with the content of Public Law 96-272 and the ACYF compliance review process as a result of the following professional activities:

a. Employment under the Inter-Governmental Personnel Act as a Program Analyst for the Children's Bureau of the federal Health and Human Serivces Agency in 1980-81. In this position, I was a member of a special task force to develop the draft regulations for PL 96-272 published on 12/31/80. Subsequent to publication, I assisted in the analysis of comments on the regulations from January-June 1981.

b. During early 1981, I also participated in a Pre-Test of the 427 Eligibility Review procedure in the State of Virginia. Following my return to Vermont, I participated at ACYF's request in a Region I federal child welfare program review of Massachusetts.

c. I also have been deeply involved in Vermont's attempt to implement the PL 96-272 requirements.

4. Prior to employment with the federal government, I was involved with child welfare services administration through employment as Vermont SRS's Director of Social Services from 1973-1980. Vermont's Director of Social Services holds responsibility for statewide administration of Vermont's child welfare services programs.

5. The comparative analysis described in Exhibits B and C required roughly 80 hours of my time.

6. In conducting the analysis, I attempted at all times to be objective and unbiased.

7. One of the grounds for ACYF's sanction against Vermont was the failure to provide hearings for TPR children at clearly defined times.

8. In FY '81 Vermont did provide by policy for administrative hearings for TPR children at clearly defined six month intervals. Vermont also provided other hearing opportunities for TPR children which were not held at clearly defined intervals.

9. ACYF refused to accept the six month administrative hearings as court approved administrative hearings, and found Vermont out of compliance with Public Law 96-272 because the other hearing opportunities for TPR children were not held at clearly defined intervals.

10. Vermont was also found out of compliance with Public Law 96-272 for an alleged failure to hold dispositional hearings for other children in foster care at 18 month intervals.

11. My comparative analysis indicates that 22 other states failed to hold dispositional hearings at clearly defined time periods for either particular categories of or all children in foster care. See, Ex. B, I; Ex. C.

12. Of these 22 states, ACYF found 18 of them either conditionally or fully eligible for FY '81. See, Ex. B.

13. Only one state besides Vermont was ineligible on the basis of the lack of hearings at defined time periods. That state was Rhode Island, like Vermont, a Region I State. See, Ex. C. p. 11.

14. Mississippi, Nebraska and Nevada, the other three states included in Ex. B. which did not achieve eligibility status in FY '81, withdrew their applications subsequent to the ACYF eligibility reports. See, Ex. B.I; Ex. C. Mississippi was found eligible on policy grounds prior to withdrawal. Ex. C., p.6. Nevada was found fully eligible in FY '82 despite a continued failure to hold hearings at clearly defined intervals. See, Ex. C, p.7. Nebraska was also found eligible in FY '82. ACYF has not provided Vermont with the FY '82 eligibility report on Nebraska, so Vermont is unable to determine whether the failure to hold hearings at clearly defined intervals persisted into FY '82.

15. Vermont was also found out of compliance for an alleged failure to require "face to face" dispositional hearings where all parties were agreed to a dispositional plan.

16. Six other states were found fully eligible in FY '81 despite the alleged failure to require face to face hearings. See, Ex. A,II.

17. Vermont contends that the Vermont dispositional hearings held shortly after a child enters foster care satisfy the Public Law 96-272 Sec. 475 (5) (c) requirement of an initial dispositional hearing within 18 months. See, Appellant's Brief.

18. ACYF contends, in Vermont's GAB appeal, that this hearing occurs "too soon" after a child enters foster care. See, Respondent's Brief.

19. A dispositional hearing soon after entry into foster care was expressly accepted by ACYF in three other states. See, Ex. B.,IV.

20. While Vermont was not sanctioned for alleged administrative review violations, I also discovered in my comparative analysis five states which were found eligible in FY '81 even though ACYF acknowledged that their administrative review procedures did not meet a rigid interpretation of the PL 96-272 requirements.

21. In all, I found 23 different states which were found conditionally or fully eligible in FY '81 despite ACYF's acknowledgment that they failed to meet a rigid interpretation of the PL 96-272 requirements.

22. Only five eligibility reports failed to document clear variances from a strict interpretation of PL 96-272. See, Ex. B.,V.

23. Of those five reports, two contained only check marks indicating compliance with PL 96-272 requirements. These two reports failed to contain any explanatory comment. Thus, it's impossible to say whether or not these two states were in compliance with a narrow interpretation of the act or benefitted from ACYF tolerance of variations from a rigid interpretation of the law. Ex. B, V.

24. It is apparent from several federal eligibility reports on favorably treated states that federal reviewers attempted to minimize compliance problems in those states in their written comments. Thus, it is reasonable to assume that the actual variance from a rigid interpretation of PL 96-272 was even more pronounced than the federal eligibility reports indicate.

25. Despite Vermont's request for all ACYF eligibility reports, ACYF failed to provide any additional reports for years subsequent to FY '81.

26. Due to this failure, I relied on Ex. D for information regarding eligibility for subsequent years where subsequent eligibility seemed possibly pertinent to my analysis.

27. The failure of ACYF to provide eligibility reports for subsequent years prevented me from analyzing the exact length of time that inconsistent enforcement of the program has persisted.

Allen Ploof
ALLEN PLOOF

Subscribed and sworn to before me this 10th day of May, 1984.

Notary Public

Exhibit B - Quantification Summary Charts

STATES LACKING CLEARLY DEFINED TIMES FOR PERIODIC DISPOSITIONAL REVIEWS FOR SOME OR ALL CHILDREN

States	Federal Region	Review Outcome	Categories Not Given Fixed Periodic Dispositional Hearings
Arkansas	VI	Elig. FY '81	TPR children
Colorado	VIII	Elig. FY '81, '82	DD children in voluntary care
Connecticut	Pre-test	Elig. FY '81, '82	Children placed with relatives not reviewed; no specified period for dispositional reviews after first review
Delaware	III	Elig. FY '81, '82	Follow-up dispositional hearings not held
Florida	IV	Elig. FY '82	TPR children
Idaho	X	Elig. FY '82	TPR children; youth rehabilitation children
Iowa	VII	Elig. FY '81, 82	Unaccompanied refugee minors; voluntary placements
Maryland	III	Elig. FY '81	No specified period for periodic dispositional reviews
Michigan	V	Elig. FY '81	TPR children committed to Michigan Childrens Institute
Minnesota	V	Elig. FY '82	TPR children age 14 and over
Mississippi	IV	Policy approved FY '81 (withdrew) Elig. FY '82	Cases where TPR was "underway"
Montana	VIII	Elig. FY '81, '82	Children placed in private child care agencies; children under tribal courts; children under jurisdiction of probation department
Nebraska	VII	Withdrew FY '81 Elig. FY '82	TPR children (according to Comparative Study Vol. I p. 2-16)
Nevada	IX	Withdrew FY '81 Elig. FY '82	Adoption cases
Oklahoma	VI	Elig. FY '81, '82	All cases
Rhode Island	I	Failed FY '81	All cases

So. Carolina	IV	Elig. FY '81, '82	All cases
So. Dakota	VIII	Elig. FY '81, '82	All cases
Tennessee	IV	Elig. FY '81, '82	All cases
Utah	VIII	Elig. FY '81, '82	TPR children
Washington	X	Elig. FY '81	TPR children
W. Virginia	III	Elig. FY '81, '82	All cases

II. STATES WHICH PROVIDED FOR OTHER THAN A FACE TO FACE DISPOSITIONAL HEARING

States	Federal Region	Review Outcome	Comments on Dispositional Hearings
Oregon	X	Elig. FY '81, '82	Hearing is option of the court
Missouri	VII	Elig. FY '81, '82	"The regional office has concurred with the State on the issue of semi-annual case reviews and reports to the court constituting a dispositional hearing."
Virginia	III	Elig. FY '81	Hearing is option of the court
W. Virginia	III	Elig. FY '81, '82	State petitions but ... "court frequently does not hold such a hearing."
Washington	X	Elig. FY '81, 82	"Some counties if all notified and all agree, hearing is waived"
Wyoming	VIII	Elig. FY '81, '82	Court evaluates and makes recommendations based on form filed with court

III. STATES WITH ADMINISTRATIVE REVIEW VARIENCES

Delaware	III	Elig. FY '81, '82	Worker/supervisor reviews accepted
Kentucky	IV	Elig. FY '81, '82	Annual review required for "old cases"
Maryland	III	Elig. FY '81	Dictation in case record accepted if initialed by supervisor
So. Dakota	VIII	Elig. FY '81, '82	"There is no mandatory six month review required for children in basic foster care."
Utah	VII	Elig. FY '81, '82	TPR children not given six month reviews

IV. STATES WHERE DISPOSITIONAL REVIEW HEARINGS WERE FOUND ACCEPTABLE WHEN HELD SHORTLY AFTER CHILD ENTERED CARE

State	Federal Region	Review Outcome	Comment
Delaware	III	Elig. FY '81, '82	Initial dispositional hearings held "shortly after placement" were acceptable.
Rhode Island	I	Withdrew FY '81	Probable cause hearing accepted as dispositional hearing within 18 months.
Maryland	III	Elig. FY '81	Initial hearing upon entry in foster care accepted as dispositional hearing within 18 months.

V. STATES WITH NO DOCUMENTED VARIENCES

Arizona	IX	Elig. FY '81, '82	No variences documented
Georgia	IV	Elig. FY '82	No detail with report
Illinois	V	Elig, FY '81, 82	No variences documented
No. Carolina	IV	Elig. FY '82	No variances documented
No. Dakota	VIII	Elig. FY '81, FY '82	No detail with report

Exhibit C

(1)

STATE	VARIANCE FROM PL 96-272 427 Requirements	COMMENT
ARKANSAS (1)	Arkansas was found eligible in Fy'81 with a dispositional review system similar to Vermont's for TPR Children (see Comparative Study Vol. 1 p.2-11 (see Comparative Study Vol 1 p.2-11; Elig. Report for FY'81 Recommendations c.5)	Respondent's reply to appellant (dated 2/20/84 page 16) acknowledges similarity of Vermont and Arkansas's system for TPR Children and "on this basis the State (Arkansas) has been determined ineligible for FY'82." Aside from the fact that Arkansas is appealing the FY'82 decision, respondent does not mention the differential treatment in FY'81 when Vermont was found ineligible and Arkansas found eligible based on similar procedures for TPR Children. Respondent also does not mention that Vermont's review system for TPR children in FY'82 has been found by Federal Region I reviewers to meet 427 requirements.
COLORADO (2)	"The review of D.D. children in voluntary placements is done annually in most counties; however, reviews do not meet 427 requirements (FY'81 Elig. Report Summary p.3) See also Comparative Study Vol. 1 p. 2-4.	Federal reviewers acknowledge that dispositional reviews for a group of children for whom the state is responsible do not meet 427 requirements yet the State was found Eligible in FY'81. We understand that State has been found Eligible for FY'82 as well but Respondent has not provided a copy of the Report.
CONNECTICUT (3)	"The case record sample survey revealed a significant number of relative placements. In these instances, Department policy dictated that the initial court order exempted the necessity for subsequent dispositional hearings" (Elig. Review D. Summary p.7)	The decision that "relative placements" were a form of permanent placement and therefore acceptable was an administrative decision made by ACYF Central office during the 427 Pre-test in which Connecticut participated. This rationale is opposite the interpretation in Vermont's case; namely, that 475 (5)(C) requires that all children in custody receive periodic reviews.
	"The definition of periodicity (as determined by the State) for the second dispositional hearing is too narrow." (Elig. Review - other Procedural Safeguards p.8)	The lack of specified period for subsequent reviews was recognized as a problem but did not affect eligibility in either FY'81 or FY'82. A dispositional hearing shortly after placement was determined to be an acceptable means of satisfying the 475 (5)(C) requirement for an initial dispositional hearing within 18 months. ACYF has expressly refused to take this position in Vermont's case.

(2)

STATE	VARIANCE FROM PL96-272 427 Requirements	COMMENT
DELAWARE (4)	Policy found acceptable in FY'82 Elig. report although extensive failure to implement policy is noted - p.8 of Elig. Report explains that initial dispositional hearings held "shortly after placement" were acceptable; however, follow-up dispositional hearings [at 18 months] were not held by September 30, 1982." "This situation poses concern for future reviews and future verification if remedial action is not taken "quickly." Also, page 9 of the Elig. Report documents that case practice did not follow policy with respect to administrative reviews. Among 60 cases found to be acceptable, 35 used Internal Administrative Reviews to meet the six month periodic review requirement. Sixteen of the Internal Administrative Reviews were held without notification of the child's parents or guardian contrary to new DCPS Policy requirements. (See table 4). Further, in 26 of the 35 cases, an independent third party was not present at the review, again contrary to DCPS Policy (See table 4). In these situations the Administrative Review was typically carried out between the worker and the worker's supervisor." Lack of policy implementation was documented by Comparative Study Vol 1p. 2-12 which found in the spring of 1983 that the dispositional review system mandated in September of 1982 was "not yet implemented."	Of the 14 failed cases in the Delaware case sample all were disqualified due to lack of periodic follow-up dispositional hearings. Note dispositional hearings were "not due" in 27 cases and 31% of the case sample was determined to be in "permanent placement and therefore exempt from the 18 month follow-up hearing." Cases reviewed by practices that did not follow PL96-272 requirements or DCPS policy were found acceptable.
FLORIDA (5)	"The Case Review System of Florida meets the requirements of Section 475 (5) of the Act conditionally. Though dispositional hearings are required	Florida's statutes do not require hearings for TPR Children (See Appellant's Reply Brief, P. 16-17), yet Florida was granted "Conditional eligibility." State found eligible for FY'82.

STATE	VARIANCE FROM PL96-272 427 Requirements	COMMENTS
FLORIDA (5) (continued)	by Florida statute and policy, they were not always held for children who had reached the age of majority or children whose parental rights had been terminated. This is the weakest link in Florida's case review system and must be corrected Elig. Report FY'82 Section C. Case Review System The Comparative Study also indicates that where TPR has already occurred dispositional hearings are not held (See Comparative Study Vol. 1 p. 2-12)	
GEORGIA	No detail included in Elig. report for FY'82.	State found eligible for FY'82.
IDAHO (7)	Comparative Study p. 2-12 indicates that Idaho does not hold dispositional reviews where TPR has already occurred. Elig. Report for FY'82 (section C) indicates a problem in this area- "The state must consistently hold dispositional hearings for youth rehabilitation (YR) children and children for whom parental rights have been terminated. The State should inform the court of specific time frames and content for PL96-272 dispositional hearings." (underscoring added)	Eligibility Report contains little detail but confirms a TPR problem as documented in the subsequent Comparative Study. State found Eligible for FY'82.
ILLINOIS (8)	No variance documented.	State eligible for FY'81 and FY'82.
IOWA (9)	Elig. Report FY'81 & '82 (Case Review) points out that there are no dispositional hearings after original hearing for unaccompanied refugee minors. Comparative Study p.213 indicates that where TPR has occurred hearings were not yet implemented everywhere in early 1983.	Although Eligibility Report indicates that refugee children are in "long term foster care" the reviewers do "encourage" the Department in its development of mandatory district review teams... as "these would include unaccompanied refugee minors and voluntary placements." State found Eligible for FY'81 and FY'82.
KANSAS (10)	Eligibility Report for FY'81 (See State Agency Level Review) found that "Kansas policies extant for FY'81 did not as explicitly address the requirements of Public Law 96-272 as the subse-	Weakness cited in FY'81 policy included no requirement for a written case plan as described in PL96-272 - however, policy implemented in November of 1981 (FFY'1982) was accepted as

(4)

STATE	VARIANCE FROM PL96-272 427 Requirements	COMMENT
KANSAS (10) (continued)	quent policies developed during FY'81 and fully operational for FY'82 . .Accordingly, the balance of this report focuses on current policies in force during FY'82 which address more directly and clearly the requirements of PL96-272" (underscoring added)	meeting this requirement (see Elig. Review - Case plan) Dispositional Review arrangements were given the benefit of the doubt by eligibility reviewers- "We infer from the Kansas Statutes and the C&Y Manual that the current administrative Review arrange is "approved" by Kansas courts within the meaning of PL96-272 to serve as a dispositional hearing every six months." (underscoring added) State eligible for FY'81 and FY'82.
KENTUCKY (11)	Elig. Review for FY'81 (see case review system) documented that Kentucky required an annual administrative review for "old cases".	Although Policy requirement is a review every six months, Federal reviewers chose to only find individual cases out of compliance while overall policy was accepted. State found Eligible for FY'81.
KENTUCKY (11a)	Elig Review for FY'82 - no new review of policy conducted, state found Eligible based on FY'81 Review findings.	State found eligible for FY'82.
MAINE (12)	Maine withdrew its certification for FY'81 and FY'82.	
MARYLAND (13)	No information is included in Elig. Report for FY'81.	In a phone conversation of 6/23/83 between Charlotte King of Maryland's Social Service Administration and Allen Ploof, Ms. King acknowledged that Region III reviewers had been "very liberal" in their policy review. Examples cited included allowing dictation in the case record to count as an "Administrative Review" if the dictation was initialed by a supervisor. Also Ms. King reported that although Maryland had no policy with respect to periodic dispositional reviews, the Federal Reviewers determined that the initial dispositional review (usually held within 24 hours of the child entering care) met the 427 requirement for a dispositional review

STATE	VARIANCE FROM PL96-272 427 Requirements	COMMENT
MARYLAND (13) (continued)		to be held within 18 months. Maryland's practice of holding subsequent dispositional reviews "as needed" also was accepted. State Eligible for FY'81.
MICHIGAN (14)	Comparative Study Vol. 1 p. 2-15 pointed out that TPR Cases who are state wards have administrative review rather than a court review. The Elig. Review for FY'81 (see case review system) found that Michigan's policy was acceptable although no dispopositional hearings were conducted by law and policy after TPR when children were committed to Michigan Children's Institute which is a part of of the state agency.	Policy variance for TPR children was not treated as a compliance issue that automatically disqualified Michigan. This issue is similar to the Vermont situation except that automatic disqualification of Vermont based on TPR policy was recommended by Region I reviewers.
	Federal reviews did however find individual TPR cases without record of dispositional hearings ineligible pending review by Central Office ACYF.	Central Office ACYF initially supported denial of Michigan's 427 Eligibility for FY'81 based on disqualification of actual cases. Michigan appealled to the G.A.B.
MICHIGAN (14a) (Appeal Brief)	Argues that since Michigan probate court loses all jurisdiction over TPR children committed to MCI as then the act of committment must be regarded as "appointment and approval" (see page 12) Appellant's brief also argues that case sample methodology unfairly over-represented TPR cases in the Michigan sample.	Upon receipt of brief ACYF withdrew its finding of non-compliance (see exhibit 14B) An identical arguement regarding implied approval by Vermont's District Court of Department review of TPR cases has been rejected by ACYF. State eligible FY'81.
MINNESOTA (15)	Elig. Review for FY'82 (P.4.) notes "state should reconsider the practice of discontinuing dispositional hearings when a youth of age 14 declines adoption unless the court specifies a permanent placement for that youth."	Review team was aware of state policy to exempt a group of children from dispositional reveiws i.e. TPR over age 14 but did not raise this as a compliance issue.

STATE	VARIANCE FROM PL 96-272 427 Requirements	COMMENT
MINNOSOTA (15) (continued)	75% of rejected case records showed no evidence that a dispositional hearing was conducted - implication in Elig. Review (p.3) is that local agencies are not observing periodic review requirement.	In spite of policy problems state was found "conditionally" in compliance for FY'82 due to a 73% case record score.
MISSISSIPPI (16)	Elig. Review cover letter to Commissioner (page 2) "The state's decision not to review cases where termination of parental rights was underway had a deleterious effect. The law [PL96-272] does not provide for the postponement of reviews."	Reviewers acknowledge policy issue re: TPR but found Mississippi eligible as to policy anyway. State failed '81 based on case outcome. (See scoring for State Agency Level Review - Elig. Report dated 9/2/82) State passed FY'82.
MISSOURI (17)	Eligibility Report (p.5) "The state guidelines allow the case plan for each child to be a single document or a series of documents in summary narrative, letter and/or formal report form."	Reviewers expressed difficulty with the lack of a single case plan document but accepted this policy.
	Eligibility Report (p.7) "The regional office has concurred with the State on the issue of semi-annual case reviews and reports to court constituting a dispositional hearing."	Reports to the court with an opportunity for any party to request an actual hearing were made a compliance issue for Vermont but the similar arrangement in Missouri has been approved as "substantially acceptable." (elig. report p.10)
	. . . "We would encourage the State to go forward in their efforts to legislate 18 month hearings actual appearance before the court."	State found eligible for FY'81 and FY'82. which

STATE	VARIANCE FROM PL96-272 427 REQUIREMENTS	COMMENT
MONTANA (18)	Eligibility Report has no information on the various eligibility areas in the body of the report other than to indicate that each area was "met." The summary of Montana section 427 review p. 2 lists several problems under "Issues" with respect to groups of children who were not included in periodic or eligibility reviews. However, reviewers noted that: "Problems with the periodic reviews and/or dispositional hearings (See Issues a,b,and c, above) should be resolved with implementation of the new foster care review system The degree of implementation will depend on cooperation and participation of these agencies."	Problems with periodic and dispositional reviews were overlooked based on the state's plan to implement an improved system. State's policy was approved for FY'81 and '82. State found eligible for FY'81 and FY'82.
NEBRASKA (19)	Elig. Review (cover letter) FY'81 "Nebraska was reviewed on the basis of the state's understanding of the statutory requirements. . .Therefore, the review team applied certain state specific interpretations to the review process."	One example of Federal Reviewers flexability was the acceptance of the state's definition of a case plan "although it was very broad and found not to be readily identifiable in the cases reviewed." (Elig. Report P. 4)
	Comparative Study (Vol. I P. 2-16) indicates that in early 1983 TPR children in agency custody were excluded from dispositional hearing process.	Nebraska was found eligible for FY'82.

STATE	VARIANCE FROM PL96-272 427 Requirements	COMMENT
NEVADA (20)	Eligibility Review for FY'81 (see cover letter Fleischer to Hodges dated 6/24/82) "A. one of the major areas of deficiency was in regard to the requirement for dispositional hearings. State staff members who participated with us in the review effort anticipated this finding, namely, that Dispositional Hearings are not held, particularly in the rural areas. State staff advised that it is highly unlikely that the State would ever be in compliance with this requirement because (1) there is no fulltime Juvenile Court System in some areas (2) most Juvenile Court Judges do not consider Dispositional Hearings as a priority for inclusion on the Court Dockets and (3) the State Agency does not have the authority to require the Juvenile Court Judges to schedule/hold Dispositional Hearings."	Nevada withdrew its certification for FY'81 since the State had never used the money and its case acceptance level would place it in the conditional range. By withdrawing, or being found ineligible for FY'81 (both options were laid out for the state by Fleischer), the State could be found conditionally eligible for FY'82. This report indicates a decision on FY'82 was deferred, until a subsequent review to be conducted after the close of FY'82.
NEVADA (20A)	FY'82 Eligibility Report completed 3/11/83 - (see policy clarification) "The following two policies were used in the decisions of whether or not a case record was acceptable. . . . 1. Dispositional Hearings are not required, but six month periodic reviews are required for adoption cases where neither the interlocutory nor final decree have been issued. 2. . . ." (underscoring added)	Although this policy did not affect the outcome of of the Eligibility review, it was the announced decision of the Federal Review team that they would accept cases that complied with Nevada TPR policy. Not only was Nevada's policy of not requiring a dispositional hearing for TPR children accepted, (contrary to Region I's decision regarding Vermont) but in addition, reviewers accepted TPR cases that were given only periodic administrative review and no dispositional hearings. (See "on-site Case Record Review") Nevada was found in full compliance for FY'82.

STATE	VARIANCE FROM PL96-272 427 Requirements	COMMENT
NEW JERSEY (21)	Eligibility Report completed 7/23/82 found New Jersey in full Compliance for FY'81. FY'82 decision was deferred pending "further clarifation from our central office in Washington" because the case record survey for FY'82 reve compliance in less than 80% of the 150 cases sampled (actual score was 74%).	Our information is that New Jersey has been found found Eligible for FY'82. However, Respondent provided no subsequent eligibility report.
	In the 7/23/82 Eligibility Report, Federal reviewers expressed concern over the high number of cases that did not meet periodic review requirements (18 in FY'81, 30 in FY'82) including 25 where no independent party was present. The lack of timely dispositional reviews, 19 cases in FY'81 and 24 cases in FY'82 also caused reviewers to "recommend that the Diversion of Youth and Family Services investigate these matters to determine whether they result from poor documentation, lack of diligence in adhering to its policies or perhaps from some other condition which may require further amendments to its current governing regulations. (Underscoring added)	In spite of evidence that raised questions concerning whether or not certain required protections were "in place and operating" as required by PL96-272, the State's policy was accepted based on overall case outcome. Federal reviewers recommended the State review the findings and take corrective action if necessary.
NEW YORK	Eligibility Report completed 6/25/82 points out that Social Service Law does not require that a dispositional hearing be held within 18 months only that a petition be filed in family court when a child has remained in foster care for eighteen months.	Reviewers recommended that the Social Services law be changed to "guarantee timely dispositional hearings." Policy was accepted based on case review results which indicated substantial compliance. State eligible for FY'81 and FY'82.

STATE	VARIANCE FROM PL96-272 427 Requirements	COMMENT
NORTH CAROLINA (23)	No variance documented on FY'82 Eligibility Report.	State eligible for FY'82.
NORTH DAKOTA (24)	No narrative information contained in FY'81/'82 Eligibility Report.	State eligible for FY'81 and FY'82.
OHIO (25)	Eligibility Report for FY'81 and FY'82 completed 10/10/82. State failed FY'81 on policy and case review (score of 49%). Decision on FY'82 withheld.	Although Ohio was reviewed after the close of FY'82 for both '81 and '82, ACYF has apparently not made a decision yet on FY'82. If a decision has been made for Ohio for FY'82 based on a subsequent report, Respondent has not provided appellant with a copy of such report.
OKLAHOMA (26)	Eligibility Review for FY'81 and FY'82 conducted 11/4/82 "Periodic dispositional hearings subsequent to the original dispositional hearings are "triggered" on an "as needed' bases . . . ." Although this review was conducted after the close of FY'82 reviewers expressed concern over "major emerging problems" . . . such as "late periodic reviews and periodic dispositional hearings." Apparently when reviewers determined that the State would fail FY'82. They decided to terminate the review and conduct a separate review "during FY'83, utilizing a separate sample including cases opened prior to April 1, 1982. "At issue is the state definition of 'periodicity' of dispositional hearings, and the interpretation HB1231 (effective 10/19/81) and HB1466	Lack of specific time for subsequent periodic reviews was accepted for FY'81 and State was found eligible.

STATE	VARIANCE FROM PL96-272 427 Requirements	COMMENT
OKLAHOMA (26) (continued)	(effective 10/01/82) regarding required periodicity of dispositional hearings subsequent to original dispositional order!"	Respondent has not provided a subsequent report for this State for FY'82. However, we understand ACYF considers Oklahoma to be in full compliance for FY'82.
OREGON (27)	Eligibility Report for FY'81 completed 4/27/83 found that the State passed the policy requirement but failed the case record survey with a score of 47. Oregon policy allowed for an ex-parte Hearing Process for dispositional review. Although Federal Reviewers did not find the State out of compliance due to this policy, they did conclude that the practice did not "meet the dispositional hearing requirement in Section 475 (5)(C)." Cases were disallowed where there was evidence that the ex-parte hearing process was used.	Oregon appealed to Central Office ACYF and the negative recommendation of the Regional Office was overturned. Oregon was found eligible for FY'81 and FY'82 apparently with no further review, or, if such a review exists Respondent has not provided a copy to Appellant.
RHODE ISLAND (28)	Eligibility Review for FY'81 found Rhode Island ineligible for 427 funding. However, Region I reviewers did accept the State's probable cause hearing as the dispositional hearing . . ."due to the fact that it is held within 18 months, and addresses the elements required for dispositional hearings as defined in PL96-272." However, Region I reviewers found that the State's failure to define a specific time for hearings held periodically thereafter was unacceptable. (See State Level Review [4]).	Vermont has alleged that it's §639-§657 hearings meet the requirement for a dispositional hearing "within 18 months." Although these hearings are similar to Rhode Island's "Probable Cause" hearings and other hearings occurring soon after placement that have been accepted, Respondent has argued that Vermont's hearings occur "too soon."

(12)

STATE	VARIANCE FROM PL96-272 427 Requirements	COMMENT
S. CAROLINA (29)	Eligibility Review completed 6/4/82 found State eligible for FY'81 and '82. However, report recommended "That the State mandate through policy a periodicity limit for subsequent dispositional hearings rather than depending on the Citizen's Review Board's recommendation."	Region IV treated the lack of a specified time period for subsequent dispositional hearings as a corrective action issue. This is in contrast to Region I' approach to Vermont and Region I's finding in regard to Rhode Island where the same lack of specificity for periodic reviews was cited as the reason for the finding that "dispositional and periodicity requirements are not in compliance with PL96-272."
S. DAKOTA (30)	Eligibility Review completed 8/27/82 found S. Dakota in full compliance for FY'81 - decision withheld for FY'82. Findings: (see Case Review - Issues/Recommendations) "There is no mandatory six month review required for children in basic foster care." "In most cases, there was not evidence of dispositional hearings following the initial one.". . . "A Procedure should be developed to assure that the State's periodicity be implemented as soon as possible." "The practice of carrying out periodic reviews was found to be very weak. This caused the State to be ineligible for FY'82.	Lack of a six month review requirement and lack of follow up dispositional hearings are clear policy variances. However, State was found Eligible. Comparative Review (Vol. I p. 2-19) indicated that State (as of early 1983) had "not yet decided" when periodic reviews would be held. Our information is that S. Dakota has been found Eligible for FY'82 but Respondent has not provided any further review report.

STATE	VARIANCE FROM PL96-272 427 Requirements	COMMENT
TENNESSEE (31)	Eligibility Review completed 4/12/82 found the State eligible for FY'81. Decision on FY'82 was withheld. Findings: "Please refer to the Administrative Review for the 'qualified' acceptance of the State's effort to meet the requirements of Section 427 (a) of PL96-272. The timeliness factor precluded local staff taking necessary action for FY'82 or FY'81. The term 'Dispositional Review Hearing' is foreign to state usage even though the concept was determined to be practiced in some areas of the State." (underscoring added)	In spite of finding that the term "Dispositional Review" was foreign to state usage and apparently not practiced in most areas of the State, the Reviewers gave "qualified" acceptance to State's effort to meet requirements. Our information is that this State has since been found Eligible for FY'82 If there was a subsequent report it was not provided by Respondent.
UTAH (32)	Eligibility Review completed 2/25/82 found Utah in "substantial compliance" for both FY'81 and FY'82. Review cover letter noted the following under Problems/Issues on page 4: "7. Some children, whose parental rights have been terminated, did not receive six-month (6) court reviews or dispositional hearings. It is suggested that the agency review its policy on the above to ensure that children whose parental rights have been terminated will have court reviews."	Although the Eligibility Report itself contains no narrative information, the Report's cover letter makes it clear that TPR children were not being given 6 month or dispositional reviews. However, Region VIII chose to treat this as an area for suggested corrective action rather than make it a policy compliance issue as was done by Region I in Vermont's case.
VIRGINIA (33)	Eligibility Review completed 7/6/82 found Virginia conditionally eligible for FY'81. Findings: "The Virginia code in 1981 permitted a judge to determine if there was good cause to hold a hearing for a child in foster care. Regular judicial and administrative reviews were conducted, however. hearings were not always held for all children. The local wel-	Reviewers determined that an actual dispositional hearing was only held when the judge felt there was good cause. Region III staff did not make this an eligibility issue as has been done in the case of Vermont. Appellant understands that Virginia has been reviewed for FY'82 but Respondent has not provided

STATE	VARIANCE FROM PL96-272 427 Requirements	COMMENT
VIRGINIA (33)	fare Department petitioned the court as required, however, hearings were only consistently held for children in permanent foster care and children for whom adoption was the goal. The case record review revealed that 28% of the Virginia sample did not receive timely dispositional hearings." (see Summary and Recommendations p. 5)	a copy of that review.
WASHINGTON (34)	Eligibility Review completed 8/9/82 found State conditionally eligible for FY'81. Findings: "The State must reinforce with staff the necessity of holding hearings in cases where parental rights have been terminated." (See Case Review System) Comparative Study (Vol. I p. 2-20) points out that in "some counties if all notified and all agree, hearing is waived."	Lack of dispositional hearings in TPR cases not made a policy compliance issue. Lack of face to face hearings in "some counties" was not made a policy compliance issue.
WASHINGTON (34A)	State found Eligible for FY'82 based on report completed 1/25/83. Findings: "Case reviews should be held by an administrative body when a court hearing is not held due to an appeal concerning termination or due to a pre-adoptive placement." (underscoring added) (see Case Review System)	No new review of policy was done for FY'82. However, Reviewers recognized that it was State practice not to hold hearings when a child was in a pre-adoptive placement. However,this was not made a policy issue.

STATE	VARIANCE FROM PL96-272 427 Requirements	COMMENTS
W. VIRGINIA (35)	Eligibility Review completed 7/29/81 found West Virginia conditionally eligible for FY'81 Findings: "Dispositional hearings are requested by the West Virginia Department of Welfare within 18 months of placement and as necessary after that." (see-State Agency Level Review) "West Virginia law and policy provide for a dispositional hearing for all children in custody. The Department of Welfare petitions the court to hold a hearing as required, however, the court frequently does not hold such a hearing." (underscoring added)	Lack of specified time period for periodic dispositional reviews not made a compliance issue by Region III. Comparative Study, Vol. I p. 2-20 indicates that West Virginia does not provide dispositional hearings for "Cases in which TPR already occurred." Lack of face to face hearings not made a policy compliance issue.
W. VIRGINIA (35A)	Eligibility Review conducted 2/15/83 found State eligible for FY'82. Cover letter of 12/16/82 (Pearis to Ginsberg) stated: "An administrative policy change will be required in West Virginia for any Section 427 reviews conducted for FY'83 and beyond. West Virginia will be required to define the periodicity of dispositional hearings held after the initial hearing. West Virginia currently defines 'periodically thereafter' as 'as needed.' The new standard for FY'83 requires a definition by periods of time. This period must be written in policy. This new requirement does not apply to the current review for FY'82. Findings from the review: "The Department of Welfare petitions the juvenile court to hold a hearing as required, however, the court frequently does not hold such a hearing." (see C. Case Review Systems)	ACYF's Regional Program Director, Alvin Pearis is warning Ginsberg that Region III would have to enforce a specific periodic review date requirement after FY'82. Although he speaks of this as a new requirement in December of 1982, this requirement was not made explicit until the final regulations were published on May 23, 1983.

STATE	VARIANCE FROM PL96-272 427 Requirements	COMMENT
W. VIRGINIA (35A) (continued)	"The latter 2 cases [without dispositional reviews] involved children voluntarily entrusted to the Department of Welfare, for which the court has no jurisdiction. The Department of Welfare is developing new policy that will address the need to provide dispositional hearings for this population." (See Case Record Survey-FY'82)	Reviewers found 2 cases in the sample that did not meet policy requirements of PL96-272. This is similar to Vermont where there were also two cases found, however, Region III did not make a policy compliance issue of this variance but recognized the willingness of the Department to take corrective action.
WYOMING (36)	Eligibility Review completed 6/10/82 found State to be fully Eligible for FY'81. Findings: "A copy of this form is placed in th case file, one is sent to the State Office for review and one is sent to the courts. Information from this form is used by the review body and the courts to evaluate cases and make recommendations."	Although Respondent submitted no FY'82 Eligibility Review, our information is that Wyoming was found ineligible for FY'82. Findings from the FY'81 review imply that court decision's were made based on a paper review rather than a face to face hearing.
REPORTS PROVIDED BY RESPONDENT:		
ARIZONA	Eligibility Report completed 9/16/83 found state Eligible for FY'81 and FY'82. No variance documented on the report.	

Exhibit D

NATIONAL COUNCIL OF STATE
PUBLIC WELFARE ADMINISTRATORS
OF THE AMERICAN PUBLIC WELFARE ASSOCIATION
1125 FIFTEENTH STREET, N.W. WASHINGTON, D.C. 20005

Suite 300
Telephone: (202) 293-7550

Section 427 Federal Compliance Review
Status Report - January 24, 1984

FY 81 STATUS
(34 states certified compliance)

Passed (24)*

Arizona - N/A
Arkansas - conditional compliance
Colorado - full compliance
Connecticut - conditional compliance
Illinois - full compliance
Iowa - full compliance
Kansas - full compliance
Kentucky - full compliance
Maryland - conditional compliance
Missouri - full compliance
Montana - conditional compliance
New Jersey - full compliance
New York - full compliance
North Dakota - full compliance
Oklahoma - full compliance
Oregon - N/A
South Carolina - full compliance
South Dakota - full compliance
Tennessee - conditional compliance
Utah - full compliance
Virginia - conditional compliance
Washington - full compliance
West Virginia - conditional compliance
Wyoming - full compliance

Withdrew (6)

Maine
Massachusetts
Mississippi
Nebraska
Nevada
Puerto Rico

Failed (3)

Ohio
Rhode Island
Vermont (Before Appeals Board)

Under Review (1)

Michigan

* conditional compliance = 66% of case record reflect Section 427 protections- must reach 80% in second year
* full compliance = 30% of case records reflect Section 427 protections

FY 82 Status
(44 states certified compliance)

Passed (32)*

Arizona
Colorado
Connecticut
Delaware
Florida
Georgia
Idaho
Illinois
Iowa
Kansas
Kentucky
Minnesota
Mississippi
Missouri
Montana
Nebraska
Nevada
New Jersey
New Mexico
New York
North Carolina
North Dakota
Oklahoma
Oregon
South Carolina
South Dakota
Tennessee
Texas
Utah
Washington
West Virginia
Wisconsin

Withdrew (3)

Massachusetts
Maine
Puerto Rico

Before HHS Grant Appeals Board (1)

Vermont (FY 81 failure)

Failed (3)

Arkansas
Maryland
Wyoming

In Process (2)

New Hampshire
Virginia (re-reviewed for FY 82 and pending failure)

Not Yet Reviewed (3)

Michigan
Ohio
Rhode Island (Postponed until FY 84)

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* Conditional and full compliance distinctions have been eliminated. Effective FY 82 all states must achieve 66% in first year and 80% second year in order to be found in compliance

Mr. **Pease**. Well, thank you very much, Mr. Burchard.

In fact, I would like to thank again all of our witnesses. As it happens, we have to catch a plane back to Washington to try to implement the many good suggestions you have given us. So we are going to have to resist the temptation to just discuss the situation with you for another hour.

I think your testimony has been very, very helpful to us. There is a common thread that goes throughout it, and we will try to assimilate and carry back with us those recommendations and do our best to implement them.

Again, I thank you for your testimony. This will conclude the hearing.

[Whereupon, at 1:35 p.m., the hearing was adjourned.]

[The following was submitted for the record:]

CATHOLIC CHARITIES/
CATHOLIC FAMILY SERVICES, INC.
Archdiocese of Hartford, Connecticut
896 ASYLUM AVENUE, HARTFORD, CONN. 06105/522-8241

The Most Rev. John F. Whealon, S.T.L., S.S.L., D.D., President
Joseph E. Healey, Chairman, Board of Trustees
The Reverent Timothy A. Meehan, Associate Director of Charities
Patrick J. Johnson, Jr., ACSW, Executive Director
James F. Watt, ACSW, Assistant Executive Director

CENTRAL OFFICE
896 Asylum Avenue, Hartford 06105
DISTRICT OFFICES
ANSONIA — 350 East Main St./06401
HARTFORD — 896 Asylum Ave./06105
MERIDEN — 220 Colony St./06450
MILFORD — 203 High St./06460
NEW BRITAIN — 90 Franklin Sq./06051
NEW HAVEN — 478 Orange St./06502
TORRINGTON — 132 Grove St./06790
WATERBURY — 56 Church St./06702

June 5, 1984

John J. Salmon
Chief Counsel
Committee on Ways and Means
U. S. House of Representatives
Room 1102 - Longworth House Office Building
Washington, D. C. 20515

Dear Mr. Salmon: Re: Public Hearing on Child Welfare and Foster Care Issues and P. L. 96-272

On Friday, June 1, 1984, I had the good fortune to attend a public hearing in Hartford on Child Welfare and Foster Care hosted by Congresswoman Barbara Kennelly of Connecticut and Congressman Donald Pease of Ohio.

It was particularly gratifying to find children's needs being addressed in a family context. Thank you for the wisdom of viewing them in that light.

At this time, I would like to express my gratitude to you all and particularly the Honorable Harold Ford, Chairman of the Sub-Committee on Public Assistance and Unemployment Compensation, and our own and Honorable Mrs. Kennelly.

Would you please, at your earliest convenience, forward to me a copy of the printed record of these hearings and add my comments to the record. Per your request, six copies of this letter are enclosed.

I support without reservation the comments of Mrs. Lutz and Mrs. Rossow at the Hartford hearing. They made three basic points:

ACCREDITED

A MEMBER OF THE UNITED WAYS, AND UNITED FUNDS
OF HARTFORD, NEW HAVEN AND LITCHFIELD COUNTIES

THE CHILD WELFARE LEAGUE OF AMERICA
FAMILY SERVICE AMERICA
THE NATIONAL CONFERENCE OF CATHOLIC CHARITIES

1. Kids need at least one permanent adult in their life;
2. Delays in the judicial system are playing havoc with children's lives at a critical stage in the child's development;
3. Current levels of monetary compensation are woefully inadequate for foster care in Connecticut.

I would like to elaborate briefly on these points. A strict constructionist interpretation of P. L. 96-272 is currently violating both the spirit and intent of the law in situations involving older children who must consent to their own adoptions. Permanent foster care and permanent legal guardianship situations are denied support under P. L. 96-272. It is important that the law serve special needs children in the reality situations that are their permanency arrangement. Those in government interpreting the intent and spirit of the law need to consider permanent legal guardianship, permanent foster care, and open adoption plans in addition to the classical duo of institution or adoption as permanency alternatives.

It is also important to consider that for a few kids the institutional setting should be the permanency placement that will be least traumatizing and most permanent for the very very troubled or those near the age of majority. The child's needs must supersede the letter of the law or the requirements of the institutions.

The need for rapid decisions by court systems as they pertain to children is a major arena for reform. I had personal experience with a child who was in foster care for seven years while the court wrestled with terminating parental rights of a parent who was institutionalized. Continuance after continuance played havoc with that child's life and resulted in one adoptive couple giving up after four years on an emotional roller coaster. Please consider new or amended legislation which would expedite children on the court calendar and refocus the concern of the court on their needs. They are not packages waiting to be mailed to whatever destination, and the court needs to be more than the post office stamping new destinations on kids traveling in limbo. A system like that in Rhode Island--with one judge exclusively handling petitions of abuse, neglect, or termination--seems to work well. Another alternative might be a children's advocate in the state judiciary who speaks against indefinite continuances and calls to the court's attention the needs of kids.

Inadequate resources remain at a critical level. One item not mentioned by the representatives of the Connecticut Association of Child Caring Agencies is that a number of them are strained to the financial limits, doing like foster parents, covering the child care costs out of their own pockets. Child and Family Service in Hartford closed down its residential child care unit after over 100 years because it could no longer afford the drain on its own scarce resources, and state reimbursement rates do not meet costs. I am on the Board of Trustees of Highland Heights and also Saint Agnes Home--both residential child caring institutions--which are confronting major financial crises due to the inadequacy of reimbursement rates. Both are rapidly depleting the corpus of their meager endowments. They need help desperately as do foster parents.

Currently, no payment is made for collateral services such as meeting with school personnel, life skills education with parents, and much of the community case advocacy and consultation necessary to productive planning and case management. These supportive services, after post-placement, make the critical difference in outcomes. Mr. Nagler's testimony gives clear examples of this phenomenon.

In my concluding remarks, I wish to focus on an arena that was not addressed in the Public Hearing in Hartford, and that is the Adoption Option. Mrs. Jean Adnopoz of Yale Child Study Center made some excellent points in her oral testimony. One comment really struck me. "Adolescents generally lack the capacity to meet consistently the physical and emotional needs of kids." I urge your committee to consider efforts to promote the Adoption Option and, in the interest of kids, develop legislation to control existing abuses involving interstate private adoptions. Connecticut has model legislation to prevent abuses and protect the rights of all parties in the adoption triad: the birthparent, the child, and the adoptive parents. Currently, because Connecticut law prohibits private adoption and requires the involvement of licensed agencies, many young women and adoptive couples are leaving Connecticut to literally buy and sell babies in states where private adoptions are sanctioned (see enclosed articles). I am personally familiar with cases where young women left Connecticut to place their children while still pregnant and they were coerced into placing their child for adoption in a most heavy handed manner. To protect children, both those being born and those giving birth, there is desperate need for legislation prohibiting private adoption and interstate transportation of pregnant teens for the purpose of arranging adoptions. To protect all parties, licensed adoption agencies need to be involved.

Tax relief through H. R. 1657 (currently pending in Congress) is another means of making the adoption option more attractive. [I have asked Congresswomen Kennelly if she would co-sponsor this bill with Representative Bill Lehman (D. Fla.)] I ask your committee's support of this legislation.

The resources of private agencies also need to be better utilized by the public sector in the quest for permanency arrangements for special needs children.

For teen parents, there is desperate need for parenting skills and supportive services to assist this very vulnerable and growing population to overcome the many barriers confronting them.

Contrary to the popular myth, motherhood is not as American as apple pie. Motherhood and parenthood are not being supported adequately by this notion. I urge full funding for P. L. 96-272, and the inclusion of or consideration of the related issues raised in this letter and at the Hartford Public Hearing.

Thank you for your kindness and consideration.

I have enclosed the excellent booklet, "Growing Up At Risk in Connecticut", for the record.

Very truly yours,

Patrick J. Johnson, Jr., ACSW
Executive Director

[The booklet has been retained in the subcommittee files. Additional enclosures follow:]

THE NEW YORK TIMES, SUNDAY, MARCH 4, 1984

Baby Sale Prompts Study on Carolina Laws

COLUMBIA, S.C., March 3 (AP) — A woman's contention that she sold her baby daughter for $3,500 has focused attention on the lack of laws barring child selling in South Carolina and on the adoption regulations and may lead to tougher new laws.

In part because of the legal climate, the state has become known as an easy place to find a child to adopt. Several newspapers in the state have long accepted classified advertisements from couples, many of them affluent people from outside the state, who seek children for adoption.

Kathy Jennings, an assistant Greenville County solicitor who specializes in cases involving children, said it was "impossible" to know how common baby selling was in South Carolina because so many adoptions were privately arranged through a doctor or lawyer, with no state involvement other than a judge's approval.

Mother Says Daughter Was Sold

The issue gained attention in January when Mary Elizabeth Andrews told the police in Simpsonville, S. C., that she had sold her 22-month-old daughter. She then filed a complaint against Bill and Betty Griggs to get the child back.

The Griggses had begun private adoption proceedings and argue that Mrs. Andrews, 20 years old, had signed the child over voluntarily without any payment.

The girl has been placed in protective custody until a court decides where she will go. Th Griggses abandoned their adoption plans because of the publicity.

Inquiry on Laws Is Begun

The case prompted the Greenville County Solicitor, William B. Traxler Jr., to investigate state laws on adoption.

"I researched it and had an assistant research it and we were unable to find a law in South Carolina that prohibits the outright sale of children," he said.

' Francis Lewis, executive director of the South Carolina Children's Bureau, a state adoption agency, said, 'There is no law that prevents it."

Adoptions require approval at a hearing in family court, but there is no requirement that the State Department of Social Services or Children's Bureau be involved, he said.

'Gray Market' Term Used

While some might call private adoptions a black market in babies, Mr. Lewis disagrees.

"The more proper characterization is a gray market, neither black nor white, because the laws in South Carolina aren't clear," he said. "The judge may require a home study. When someone files a petition to adopt a child, his question may be, where did they get the child? But some judges don't ask and they make the assumption that the child is better off with these people than they would have been in the birth family."

The answers may come from the Legislature.

Under a bill introduced by State Representative David Wilkins, "No person may request or accept any fee, compensation or any other thing of value as consideration for relinquishing the custody of a child for adoption." However, medical expenses or fees for services involved in the doption could be reimbursed. Violation would be a felony carrying a maximum sentence of 10 years in prison and $10,000 in fines.

Mr. Wilkins predicted easy passage, saying, "Who's going to stand up and say they are for selling babies?"

The bill had no place on the Legislative calendar.

In 1982, the last year for which state figures were available, 1,826 children were adopted in South Carolina, 450 of them by nonresidents. Public and private adoption agencies placed only 300 of those children.

Mr. Lewis said an independent adoption cost about $7,000, as against [illegible] at his agency. The agency fee covers the mother's hospital costs alone, but there is a waiting list. Independent adoptions cost more, he said, because of lawyer's fees.

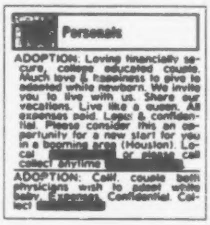
The State Social Services Department would like a requirement that adoptions be made through an authorized agency, officials said.

Newborn Fever

Flocking to an adoption mecca

Katrina slept through most of her adoption hearing last week in the sunwashed Charleston, S.C., courtroom. Her would-be mother and father sat nervously alert. An attractive, wealthy couple from out of state, they eagerly testified about their four-acre country estate, swimming pool and well-protected play area as proof of their parental fitness. Yet it was Katrina, at 15 months all blond ringlets and neatly pressed ruffles, who spoke most eloquently on their behalf. Waking up in time to accompany the woman to the witness stand, Katrina clung hungrily to her side, cooing "Mama."

Katrina's new mother and father are one of hundreds of couples who flock to Charleston every year, drawn by the promise of easy adoptive parenthood. In most areas of the country, adoption is a frustrating process, burdened by the red tape and interminable waiting lists of state adoption agencies. Although a few other states also allow adoptions in local courts by non-residents, South Carolina offers a unique blend of lax laws, aggressive lawyers and open-minded newspapers that accept classified ads from couples seeking babies. Federal regulations that are more rigorously enforced elsewhere, like the requirement that state officials conduct a "home study" of the prospective parents' fitness to adopt a child, are routinely waived by South Carolina's lenient family-court judges. In 1982 there were six times as many privately arranged adoptions—many of them made by non-residents—as placements made through the state's official adoption agency. To some, the situation has turned Charleston into a notorious baby bazaar; to others, it has made the genteel city a welcome haven for couples anxious to secure a child.



Personals

ADOPTION: Loving financially secure, college educated couple. Much love & happiness to give to adopted white newborn. We invite you to live with us. Share our vacations. Live like a queen. All expenses paid. Legal & confidential. Please consider this an opportunity for a new start for you in a booming area (Houston). Local [redacted] or please call collect anytime [redacted]

ADOPTION: Calif. couple both physicians wish to adopt white baby. Expenses. Confidential. Collect [redacted]

Katrina's case was handled by two of the nation's more controversial adoption lawyers: Stanley ("Mr. Stork") Michelman of New York City, who was indicted but acquitted in 1979 of arranging illegal adoptions, and his frequent collaborator, Thomas Lowndes Jr., a well-known Charleston attorney who handles more than 100 adoptions a year. The two attorneys encouraged the couple to place an ad in the Charleston *News & Courier Post*, which carries dozens of classified pleas each week. Most of the ads promise love for the child and remuneration to the mother. All of them end on a desperate note: CALL COLLECT ANY TIME. The couple's ad got a response. And after they spent $12,326 in lawyers' fees and maternity payments, their prayers were answered. Thanks in part to the loopholes in the state's laws, they whisked Katrina home four days after her birth. Some adoptions can be settled in as little as one day.

Judge Robert Mallard in his chambers

"What am I to do? Undo bonds of love?"

Officials of the South Carolina children's bureau, which handles official adoptions, charge that the insatiable demand for newborn babies and the state's laissez-faire attitude have spawned a new breed of ambulance chaser. These are the "bassinet hounds" who, in some cases, pursue unwed mothers all the way into the delivery room. Complains Francis Lewis, executive director of the children's bureau: "It used to be that we said, 'Here is a child who needs a home.' Now it is 'Here's a childless couple, let's go find a child.' " Lewis fears that couples screened out as undesirable in other states will pass muster in South Carolina's lax family courts. As an example of adoptive parents' vulnerability to fraud, she cites the case of two women from Summerville who are currently serving time for attempting to sell the same baby to two different couples. The unfettered system can also induce young pregnant women, who are offered payments that may far exceed their medical costs, to surrender their maternal rights too readily. Eager parents are willing to pay $15,000 or more to lawyers, "finders" and young mothers. Promises one ad: LIVE LIKE A QUEEN. Says Attorney Kathleen Jennings of the Greenville solicitor's office: "Selling children should be illegal, but in South Carolina it is not. It's only immoral, and that is something we cannot enforce."

Proponents of the system argue that a state adoption agency's handling of an unwanted child often proves far more inhuman. Bureaucratic stalls and inefficiency can condemn a baby to foster homes and state institutions until the infant has outgrown any chance for placement with a family. Says Family Court Judge Mendel Rivers Jr. of Charleston: "Even if baby selling does exist, what's so horrible about that? If the child is going to a home with good parents who can give it all the love and security it will ever need, why should we care if the parents paid $50,000 for the privilege? The child is happy, the parents are happy, so what is the harm?"

State Representative David Wilkins, a Republican from Greenville, disagrees. He introduced a bill last month in the state legislature to prevent the outright sale of children. On the national level, Senator Robert Dole of Kansas last month proposed a bill that will limit fees for arranging adoptions and restrict interstate adoptions. Until some action is taken, however, the courts in South Carolina have the last word. At Katrina's adoption hearing last week, Judge Robert Mallard made his leanings clear. "No one is contesting the adoption, and the child is obviously well cared for," he said. "What am I to do? Undo the bonds of love that have already developed?" Nestling Katrina in her quilted stroller, the couple left the courtroom beaming. ■

Adoption king who delivers the babies

Clients call him a saint but he has yet to win the adulation and praise of traditional agencies

By James McBride
Special to the Globe

PHILADELPHIA – He's listed on page 79 of the Philadelphia Yellow Pages under "automobile parts and supplies." He sells brake fluid, car wax, transmission oil, rear view mirrors, antifreeze and just about any kind of motor oil you would want to buy.

But Arty Elgart (everybody calls him Arty) isn't just your average Mr. Goodwrench auto parts salesman. He does that to make a living but his heart is elsewhere. To find out exactly where, please turn to page 877 of the Philadelphia Yellow Pages under "social services."

Elgart, 40, president of Elgart A. Robert & Son Inc., a wholesale auto supply company, is also president of the Golden Cradle Inc., a nonprofit private adoption service and home for unwed mothers. He runs both from his moderately furnished office in his supplies warehouse in an industrial section of northeast Philadelphia. Ten steps from his office, which is filled with pictures of beaming couples holding newborn adopted babies, forklifters hoist crates of motor oil onto trucks.

Elgart does not deal in "black market" adoptions where babies are bought and sold. He arranges what are known as "private placement adoptions," that is adoptions that are arranged without utilizing a licensed state or religiously affiliated agency. What he does is perfectly legal in the state of Pennsylvania, though it is illegal in Massachusetts and five other states.

He arranges for medical care, housing and counseling for birth (biological) mothers, all of which are paid for by the infertile couples who adopt children through his service.

His success is unquestionable. In the three years since he founded the Golden Cradle, he has arranged 180 adoptions. Couples who have adopted through his service describe him as a hero and a saint. Unwed pregnant mothers praise him as a guardian angel. He lectures on adoption to hospital nurses and doctors. He has traveled around the country appearing on television and radio talk shows including, "Good Morning America." He was recently filmed by a crew of "60 Minutes."

But, for all his success and hard work, Elgart has yet to win the praise of those who run many of the nation's established adoption agencies. Saying his service poses a number of problems, they worry that, despite his good intentions, he has attacked a sensitive problem – one which requires the skill of a trained professional – with all the skill and aplomb of, say, a used car salesman or a successful automobile parts dealer. The problems they cite include anything from professional recordkeeping to preparing birth mothers for the problems they'll be facing during and after the adoption procedure.

"He does a lot of things that we in the industry feel are not good," says Margaret A. Sullivan, an adoption consultant for the Catholic Charitable Bureau of Boston. "But it produces results for him."

Elgart, however, feels differently. "The traditional agencies need an awakening," he says. "They're still operating as if they were driving Model T Fords. If our society lived the way the traditional agencies have lived, we would still be riding Model T Fords and not sending satellites up into space."

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Elgart sits in his office and talks. He shuffles papers. He stands up. He sits down. The phone rings. He answers it. He brags, chortles, laughs, snorts into it for a while, then hangs up, smiling. He is asked how he started the Golden Cradle, and the smile disappears. His voice lowers.

He says the idea for founding his organization grew out of his own suffering that began when he and his wife first discovered they had an infertility problem. "We went to various specialists, went through all types of tests, both of us," he says. "Sperm counts, blockage, my wife went through a couple of operations. We both went through a lot of mental hell and anguish."

Thus began a five-year search to find an adoption agency. "We called over 100 different agencies around the country, and there was the usual problem of being in the wrong state. We even found something in this state, but we were in the wrong county. We called various religious-affiliated organizations, and you had to be of that religion and so on. It was like someone painted you into a corner, and . . . no one else cared about you."

Elgart finally found a nurse in a Philadelphia area hospital who promised she would let him know when she came across a baby who was available

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Ie delivers the babies

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adoption. In the meantime, he and wife applied for a child in an agency ort Worth, Texas.

n October 1979, the Texas agency ed him and said they had found a y for him. The Elgarts immediately down and picked up their son, h, now 3. Josh's adoption cost them ut $7000, including legal fees, air and Josh's medical expenses.

A few weeks later, Elgart's wife ned she was pregnant, and shortly r, the hospital nurse called them l told them she had found a baby for m. Elgart knew an infertile couple o were looking for a baby, so they sed the nurse's information about baby on to them. The thrill of tching the couple's agonizing search with so much joy and happiness e Elgart incentive to help others. us the idea for the Golden Cradle s born.

lnged with queries

He started in September 1980 helpg a small number of infertile couples d babies, and he came up with 15. e effort snowballed after the first few onths. He incorporated the Golden adle and began working the talk ow circuit and placing advertisents to let unwed pregnant mothers d infertile couples know how to find h other.

Before long, Elgart found himself nged with queries from both infertile uples and unwed pregnant mothers m across the nation. "We had a girl t just came in this morning from yetteville, Ark.," he says. "I have a l here now from Dale City, Va. I have ee girls here from California ... I ve a girl here from St. Louis. From over the country. It just says someing.

"The fact is that agencies quite of will not want to pay the birth moths hospital bills, which I can underand. However, you talk to the six or ght million (infertile) couples out there d see if they're willing to pay her ls, and you bet your sweet bippies ey will."

And they do. For that is how the lden Cradle adoption service works. fertile couples become part of an inmal group that meets once a month discuss problems as well as to ise money for the Golden Cradle rough bowling parties, flea markets d raffles. Each couple is asked to ost an unwed mother who lives with em during her pregnancy. All the th mother's expenses, including lel fees and medical bills, are paid for [illegible] couple who will eventually lopt that mother's child. The birth other and the adopting couple who ys her expenses never meet each oth-

The system allows the birthmother chance to leave home during her pregancy and receive free housing, medil care and counseling, which is proled by Elgart and two licensed social orkers, whom he has recently hired. r example, Mary (not her real name) a 17-year-old high school senior from rural town in Pennsylvania who beme pregnant and wanted to give her by up for adoption. She first tried me social agencies. "But they act like u're just there," she says. "They n't act like you're a person. You're st an object to them."

ou don't have to be scared'

She read about the Golden Cradle in Dear Abby column and contacted Elrt. "Arty is terrific," she says. "He's re for you to talk to. He understands. ou don't have to be scared about it regnancy) or anything."

Mary is now spending the final eks of her pregnancy with a Philaelphia couple, while her living exenses, legal and medical costs will be aid for by the couple who will adopt er child. She adds that, although she nds it difficult to think of giving up er child for adoption, she is comforted knowing that, not only will her child e given a good home, but it will also ring joy into an infertile couple's life. It's hard," she says, "but even after I et through it, I'll still feel it's the best hing. At least I'll give the baby a hance to live."

Elgart says the birth mothers are alowed to write and send birthday and Christmas gifts to their children hrough his organization. He says that ut of 180 biological mothers who greed to adoption, nine have hanged their minds.

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Twice a year, in September and Febuary, Elgart accepts 50 couples into the informal group that meets monthly. The couples pay a $1200 fee, most of which is used for advertising costs, Elgart says. The fee does not include medical and other expenses that the couples pay for one birth mother, which amount to about $5000. Elgart says he does not make any money from his adoption service.

Arty Elgart says that of 180 biological mothers who agreed to adoption, nine have changed their minds.

PHOTO BY GEORGE WIDMAN

His motivation? "Here are 130 reasons why I do this," he says, pointing to the pictures of happy couples holding their infants that line two walls of his office. He pulls out a box of thank-you letters from his desk. "Seventy more reasons."

Elgart says he has nearly 2000 applications from people who are waiting to be accepted into the informal club. He and his two social workers review each application. Although preference is given to couples living in or near Pennsylvania, he has worked with couples from other states, including Ronnie L.B. and Samuel Lazarus of Plymouth. Ronnie Lazarus, 31, describes Elgart as "a wonderful, wonderful man."

Faced with 8-year wait

Ronnie Lazarus says that she and her husband met Elgart after a humiliating and frustrating search to adopt a baby in Massachusetts. "There was an eight-year wait in Massachusetts," she explains. "We went through a number of agencies, people asking us what side of the bed we slept on and so forth. We talked with lawyers, and other people who obtained babies in illegal ways." (According to Lisa Funaro, listing coordinator at the Massachusetts Adoption Resource Exchange, the average wait is four to eight years, depending on the demands of the family.)

Their search turned up nothing until her husband's brother learned about the Golden Cradle through a friend who lives in Pennsylvania. They decided to give it a try. "We went to Arty and we were very impressed," Ronnie Lazarys says. "He was very honest with us. He really wanted to help."

The Lazaruses began to attend the monthly meetings in February 1981, traveling to Philadelphia by car. Almost a year later, Elgart called them into his office and told them that "the stork is going to call."

Shortly after that, they adopted a newborn sandy-haired, blue-eyed baby girl named Annie, who is now 11 months old.

The Lazarus' experience differs from that of most couples involved in the Golden Cradle in that they were not asked to house a birth mother because they lived too far away from Philadelphia. But their view of Elgart's approach to the adoption problem is one that is probably shared by many of the 180 couples who, before they met Elgart, were among the estimated 4 to 6 million infertile couples vying for the nation's estimated 40,000-50,000 available babies.

"The state has total control over who will get a baby and when," Ronnie Lazarus says. "Arty has shown that the process can be speeded up and done properly."

However, there are many in the adoption industry who disagree. Most seem to be concerned with the fact that

lgart is not a licensed professional social worker and that the Golden Cradle is not a licensed social agency in Pennsylvania. Elgart has applied for a license from the state, which he expects will be approved by the end of January. Moreover, he has already hired two licensed social workers to work with him and, to date, says he has counseled 180 unwed mothers himself.

Aggressive in the media

Still there is concern. "In terms of Mr. Elgart's operation, it is controversial in many ways," says William L. Pierce, president of the National Committee for Adoption, a Washington-based lobbying group for the nation's major adoption agencies. "It probably bothers traditional agencies most in that he's very aggressive in using the media, including advertising."

Elgart advertises big. Ads for the Golden Cradle can be found in 22 telephone books, 16 newspapers, one train trestle and six billboards. Most of the advertisements are for free medical and legal expenses for unwed mothers considering adoption and give a number to call collect: 289-BABY. It's a clever way to advertise for, say, auto parts, but adoption agencies don't usually work that way. "He has those billboards and that's costly," says Sullivan of the Catholic Charitable Bureau of Boston. "Agencies don't have that kind of money . . . His main thrust is that he can find girls who will surrender their babies." She adds that agencies need to advertise, but can't do it as aggressively as businesses would.

She adds that, "Boston is a very conservative community and community agencies have not advertised to that degree here."

There is no doubt that Elgart's ads are working. "I'm probably considered a traitor for saying this," Pierce says, "but, by using the media, he has opened the way to a whole lot more young women than anybody else. I think more and more people will follow that approach. What he is saying is that this is the '80s and it's a different world now."

But Pierce is quick to add that, "There is only one agency that sensitively balances the needs of the adopting parents, the biological parents and the child – which is what this is all about – and that's the licensed adoption agency."

Wants to shift focus

Elgart agrees. "The agency way is the way to go," he says. "It just needs to be upgraded. You have to shake it up a little bit." Elgart plans to do some shaking up of his own when he raises the fee of the Golden Cradle from $1200, not including the birth mother's expenses, to $7900, after he receives his license. The $7900 will cover the entire cost of the adoption, including medical and legal fees, the salaries of two licensed social workers and one to be hired and the cost of maintaining a recently purchased, $300,000 home just outside of Philadelphia for the Golden Cradle.

Elgart says he is looking forward to the time when his agency will become licensed, because between running the Golden Cradle and Elgart A. Robert Inc. & Son he has little time for Louise Elgart and his two children. "It's tough because lots of times I leave home early in the morning and quite often will not get back until late at night," he says. "I'm usually home one night a week, and that's one of the reasons we're in the process of becoming an agency. So we can hire staff and take some of the pressure off of me." He stops, then adds – "and also to improve credibility so that skeptics will realize it's a licensed agency at this point and the focus will be away from Arty Elgart and more on adoption, which is where it should be."

Will he stay involved with the Golden Cradle in the future, even if he becomes a licensed agency and hires more staff?

"Of course," he says. "It's my love."